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Kirgizy i Karakirgizy Syr-Dar' inskoi Oblasti
[The Kazakhs and Kirgiz of the Syr-Darya Oblast]
Vol. 1. Juridicial Life.

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[Title page]

/i/The study of the modern juridical life of the Kazakhs and Kirgiz is extremely important, both for the proper organization of the administration and the courts in the midst of the nomadic population of our Central Asian regions, and equally for science.

The need has long been felt for a study of the customary law of the non-Russians inhabiting the borderlands of the empire. Thus in the 1820s a collection of the customary law of the Siberian indigenous peoples, including the Kazakhs, was made by order of the government, under the supervision of the Governor-General of Siberia and a special commission. The collection was made by the peoples themselves, in their languages and was preserved in Russian translation in the second section of the chancellery belonging to His Own Imperial Majesty. Count Speranskii had the idea of compiling a code of all the local laws and customs in the empire, incidentally also for the Siberian indigenous peoples, and for this code the collection mentioned above could have served as material. But this idea was never carried out, and the material collected in Siberia was published only in 1876 from the copies preserved, by Professor D. Ia. Samokvasov of Warsaw University, under the title Sbornik Obychnago Prava Sibirskikh Inorodtsev / A Collection of the Customary Law of the Siberian Indigenous Peoples. At the end of this collection, in the section of Kazakh customs, there is an account of the customary law of the Kazakhs in a strictly dogmatic form, obviously of the Siberian department, i. e., primarily of the Great and Middle Hordes. There is no mention of the Kirgiz in the collection.

As can be seen from the foreword to the section on the customs of the Kazakhs, this material was compiled in a special committee with the participation of Kazakh elders. Even from a cursory reading of this section it is evident that the material of the committee was composed to a considerable degree by Kazakhs invited into the committee. Such is the chapter "On religious worship."(1)

1. For example, article 7 reads "Whoever converts a Christian to the Kazakh religion, that person will be included with the faithful in the kingdom of heaven." While article 8 says: "If a member of a Kazakh tribe accepts the Christian faith, not only will he lose his rights of succession to his own property, but if one of them who has the express purpose of being converted

is captured before he has taken the Christian faith, he must lose his life according to the law, for having offended his law."

Special attention is attracted by later articles concerning /ii/ the rights and privileges of the white bone, and cruel punishments (death penalty, lashing, cutting off parts of the body, etc.) which are completely untypical of the Kazakhs, among whom almost all transgressions were and are paid for by remunerations. (1)

1. " 1. Article 67: "If someone kills a Khodja, then the entire volost pays the kinsmen of the murdered man the same fine which is paid for the murder of seven ordinary men. If this fine is not paid, then seven of the closest relatives of the murderer in that volost must be hung, including the murderer."

Article 80: "Among the Kazakhs, the owners of Kalmuk slaves have unlimited rights over them, and can punish them if they are guilty, or even if innocent..."

Article 84: "If one, two, three or more persons kill one or several persons, then the one whom the plaintiffs demand is handed over to them for immediate execution. The wergeld /khun/ is not paid in such a case..."

Article 116: "He who violates a betrothed girl, must pay the groom for this (an enumeration follows). If the offender is unable to pay he must be put to death."

Of the same order are articles 117, 118, 119, 123, 126 and others. But the most horrible of all is article 200: If a son or daughter who is already spoken for enters into marriage with another, without the knowledge of his parents, he must die."

A. Levshin published a work in 1831 entitled Opisanie Kirgiz-Kaisatskikh Ord i Stepei /A Description of Kazakh Hordes and Steppes/

which was very skillfully compiled and serves to this day as a basis for further study of the nomads of the Kazakh steppes. It contains an account of the basic principles of Kazakh customary law, but unfortunately, it is very brief.

At the beginning of the 1850s, Bonch-Osmolovskii, an official in the Asian Department and a cultured orientalist, was working on a collection and study of data on the juridical customs of the Kazakhs. His work, however, has not been published, and is thereby lost to the cause.

In 1865 Kirgizaskaia Step' Orenburgskago Vedomstva /The Kazakh Steppe of the Orenburg Province/, was published, a book compiled by Lt. Colonel Meier of the General Staff. (2) It contains, juridical customs of the Kazakhs, but all this is stated very briefly and, furthermore, in the general description of manners and customs. (3)

2. Materials for the geography and statistics of Russia, collected by officers of the General Staff.

3. In Krasovskii's work Oblast' Sibirskikh Kirgizov /The Region of the Siberian Kazakhs/ published in 1868, the description of the manners and customs is borrowed from Meier and Levshin, and in general contains nothing remarkable on the subject of interest to us.

This is almost all the published material in our literature at the time of the compilation (in 1865) of the Proekt /iii/ Polozheniia ob Upravlenii v Oblastiakh Semirechenskoi i Syr-Dar'inskoi /Draft of a Code for the Administration in the Semirechie and Syr-Darya Regions/. In 1867 the Turkestan Governor-Generalship was formed from this, governing on the basis of this Draft until 1887, in other words, for almost 20 years. If very great mistakes were not made in the Draft it was only because of the fortunate choice of personnel on the commission which compiled it.

During the administration of the Turkestan region by Governor General K. P. Kaufman, whose enlightened mind could not fail to perceive the need for a collection of the tenets of Kazakh customary law, attempts were made in this direction. But the desired result was not achieved, for many reasons, of which the most important was that the matter was directed by chancellory procedure.

Meanwhile , the conception of Kaufman, who encouraged the study of Central Asia in every respect, did not remain without any result. Private works appeared in print instead of official ones.

Of these, one of the more important is that of Zagriazhskii, published in 1876 in Part IV of Materialy dlia Statistiki Turkestanskago Kraya entitled "Iuridicheskii obychai kirgizov" /The juridical customs of the Kazakhs/. This work is quite complete and concerns the juridical life not only of the steppe Kazakhs but also of the Kirgiz. Its faults lie in the form of the account for everything is broken up into paragraphs and stated in strict dogmatic form, without variants according to hordes and localities and furthermore, the time of the compilations are not indicated, nor the place in which the customary laws were written down. Yet all this is of essential importance in such a work, for the juridical customs differ considerably for the Kazakhs of various hordes and localities which are far apart.

In addition to this fundamental work there are several small articles which have appeared at various times in periodicals. Of these an article by Ibragimov deserves to be mentioned, published in the Zapiski Geograficheskago Obshchestva (Vol. 8, 1878), entitled "Zametki o kirgizskom sude" /Notes on the Kazakh court/. This article is not a collection of tenets of Kazakh customary law but an outline of Kazakh court procedure and a characterization of certain customs. Among other things it contains indications which are of value to the jurist on the attitudes of the Kazakhs to Russian and Moslem (according to the Shariat) court tenets.

The western Siberian statistical committees studying the Kazakhs iv/ of the eastern part of the steppes, have turned their attention to their juridical life, and with this attempts have been made to make a critical study both of old materials and also of the juridical life itself.

In 1882, Pamiatnaia Knizhka Zapadnoi Sibiri /Memorial volume of Western Siberia/ was published in Omsk, in section III of which is an article by I. Kozlov entitled "Obychnoe pravo kirgizov" /The customary law of the Kazakhs/ compiled on the basis of the court decisions of the biis, taking into consideration the works of Samokvasov and Zagriazhskii, Levshin and others. In its approach this article is a critical study of the customary law of all the Kazakhs and a general characterization of it, with an indication of those innovations and changes which have entered the customary law from the Shariat and the "Vremennoe polozhenie ob upravlenii v oblastiakh Ural'skoi, Turgaiskoi, Akomolinskoi i Semipalatinskoi" /Provisional Code for the administration in the Ural, Turgai, Akmolinsk and Semipalatinsk regions/. The writer also includes the customs of the Kazakhs of the Turkestan region parallel to the customs of the Siberian Kazakhs.

The latest work on Kazakh customary law is the publication in 1886 in Omsk by the Semipalatinsk regional statistical committee Materialy dlia Izucheniia Iuridcheskikh Obychaev Kirgizov/ Materials for the Study of the Juridical Customs of the Kazakhs/ (Pt. 1, Materi-al'noe Pravo /Law of Things/). Data collected by the chiefs of the uyezds of the Semipalatinsk region served as the basic materials for this book. These were collected according to a program provided in 1882 by the Governor General of Western Siberia. and this was studied and supplemented by the compiler of the book, P. E. Makovetskii, a member of the statistical committee. by means of oral inquiries in the steppe, and study of the actual decisions of the biis.

The work of Malovetskii is a valuable contribution to the literature on the customary law of the Kazakhs, containing an indication of the historic origin of certain customs, and of the influence of the Shariat and Russian laws. In addition the book contains a collection of variants of customs according to localities and the circumstances of the case, and also a critical analysis, explanations, etc.

From the first days of my entrance into the administration of the Syr-Darya region, I noted the great gap in evidence on the customary law of the Kazakhs. The material published in this field in Russia has not been very satisfactory for the local present day demands because of the extreme limitations of the materials gathered, and its completely inadequate study. In addition to this, /v/ a considerable change 114 in the customary law has been taking place under the influence of 178 various powerful factors. One has been the influence of Islam, whose propagation among the nomads by ishans from Bukhara, Samarkand, Kokand and Tashkent has grown more intensive since our pacification of Central Asia. There has also been the influence of the Russian dominion with new orders and civilization, the transition of the nomads to agriculture, the appearance of new types of industry, etc. The life of the Kazakh hordes and groups of tribes under the rule of the Khans and Sultans and under the strong independent kinsmen under the Kokand begs and hakims etc., is in part changed, and in part long forgotten. A broad wave of new attitudes and concepts has influenced the life of the people. Life has begun to produce new

114 [178] demands to which the tenets of customary law have also been having to adapt themselves.

In 1884 I turned to the officials of the uyezd administration with the request for a collection of cusomary laws. But the material they sent, collected by illiterate translators, was of no value.

121 In January 1886 I made the acquaintance of A. N. Vyshnegorskii, who was a graduate of the Historical Philosophical Institute. While in service in Central Asia he had learned the Kazakh, Sart and Persian languages. At once it came to my mind to invite him to collect on the spot, in the actual nomadic camps and winter camps of the Kazakhs, by means of interroagation and transcription of the words of the biis and other well-informed persons.

In order to begin action, I turned to the well-known specialist in Central Asia, V. P. Nalivkin, requesting him to draw up a program for the collection of the tenets of Kazakh customary law. Mr. Nalivkin complied with my request, and in the beginning of 1886 Mr. Vyshne-
124 gorskii was sent into the area. He was told, among other things, to write down all the variants of the customary laws according to localities, and the names of his informants, and not to neglect any evidence, no matter how unimportant it seemed. Mr. Vyshnegorskii spent seven months among the nomads and collected so much material that it took about a year to analyze it. In addition there were dealings with the areas to fill in gaps or to explain places which were unclear. On various cases
128 judgments were taken from the biis' books for illustration of the material collected.

In this manner the present tome was compiled, comprising a code of the modern juridical customs of the Kazakhs of the Syr-Darya region.

In addition to the material of purely juridical character, historical narratives were collected from copies of ancient manuscripts preserved by literate Kazakhs, as well as heroic poems, superstitions, fables, riddles, charms and others. There is probably enough of this material for two more volumes. In view of this /vi/ the plan for the entire edition has been considerably expanded and been given a more general title: the Kazakhs and Kirgiz of the Syr-Darya region.

115 In the collection of the customary laws the most valuable data were furnished by the following:1)E. A. Aleksandrov, assistant to the chief of the Kazalinsk uyezd, by birth a Siberian Kazakh from the Kokchetav mountains, who has a good knowledge of the Kazakh language and is acquainted with the everyday life of the Kazakhs.

2) Kadyr Absaliamov, translator for the administration of the Chimkent uyezd, a Tatar by birth, who has lived in Turkestan for a long time and was by earlier profession a merchant, a supplier of provisions to armies, and a maintainer of a post road. He had learned customary law not from occasional accounts of biis but from constant dealings with the people, from the decisions of biis and from complaints, in general directly from life. 3) Torgai, a Kazakh of the Oshakty clan, a driver by profession, who has seen Orenburg, Troitsk, Vernyi /Alma Ata/ and other places. He is now engaged in agriculture in the Kurama uyezd. 4) The Kirgiz bii Kurpetai Dauletkulov. 5) Bii Abd-rakhman, of the Auliye-Ata uyezd. 6) Bii Sultan Kanaev, of the Chimkent uyezd. 7) Sultan Daulet Bushaev, from among the Tiuri of the Perovsk uyezd. 8) Sagyndykov, bii of the Chimkent uyezd and others.

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4:Grodekov--1 E-5 (ca. 1885) 1889 RQ2 Kazak RQ2

CHAPTER I.

101 Traditions concerning the origin of the Kazakhs and Kirgiz. - The seal /tamga/. The white bone. -Seniority. -Precedence.

The Kazakhs call themselves Kazakhs. They adjoin themselves to the tribe of the Uzbeks. The Kirgiz(1) they consider to be an Uzbek tribe separate from theirs. Out of hatred for the Kirgiz, the Kazakhs trace their origin from non-believers-Kalmuks, and even simply from [773] dogs. (2) The Kirgiz call themselves brothers of the Kazakhs and deny that they are descended from Kalmuks or dogs.

The word kazak, according to the dictionary of Budagov, means free, a wanderer, an outlaw, and also a bachelor. According to the explanation of the Kazakh Aviz, /2/ of the Perovsk uyezd, the word kazak is composed of two words: kaz (goose) and zag (raven), i. e., steppe birds, or in other words, steppe dweller. This etymology confirms in general that the name kazak indicates the form of life of the people bearing this name. According to the explanation of Sultan 173 Kanaev, bii of the Chimkent uyezd, Kazak means outlaw. He has heard from books that there were two brothers, Mogul and Tatar, and

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1. Kyrgyz. This is what the Kirgiz call themselves. They do not know the name of Karakirgiz /Black Kirgiz/ or Dikokamennyi Kirgiz/Wild Stone Mountain Kirgiz/. In their opinion the word karakirgiz appeared with the coming of the Russians. The word buruty (burut, murut) is used among the Kirgiz.

2. In the Kurama uyezd the following story was transcribed, which was intended to explain the constant enmity between the Kazakhs and Kirgiz. There were three brothers, of whom two were Kazakhs and the third a Kirgiz. The first did not want to give the Kirgiz his share. Therefore the latter quarreled with them, grabbed a poker for himself from among the vessels (savanyng pishkesh), so as to take at least something of his share, and fled into the mountains. The Kirgiz descended from him and went on living in the mountains.

that the Kazakhs were descended from the former. He has also heard the story that the Moguls fought with the Tatars and were conquered by them. From the battle 300 men survived who began to be called the three hundreds (hordes), and who found shelter in the mountains. Here they multiplied and came out onto the steppe.

The tradition concerning the formation of the Kazakh people from parts of various Uzbek tribes lives to this day on the lips of the people.

According to the tradition which is widespread in the Syr-Darya region, the father, i. e., the first chief of the Kazakhs, was a contemporary of Alasha-Khan, Alash, for which reason the war cry (uran) of all three hordes is Alash. (1)

Alasha-Khan sent three detachments of unmarried horsemen of various Uzbek clans to a border region to guard his dominions. (2)

Since they were there for a long time without women, they attracted 300 tents of Doly (Gypsies or wanderers) to themselves by stories of their wealth and persuaded the women to kill their husbands, after which they took the Doly women for themselves. The leaders of the three hordes after Alasha were his three sons. The leader of the Great horde was Baishura, (3) the leader of the Middle horde was Dzhanshura, and that of the Little horde was Karashura. As they multiplied and grew rich, the Kazakhs began to spread in all directions. The Great horde (ulu yuz) took the south, around the populated places, while

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1. The war cries of various clans are entered in supplement No. 1.[1]

2. The Kazakhs indicate a place near Turkestan /the town/, from which the original three hundreds were sent out in various directions.

3. It must be assumed that Baishura was the youngest son of Alasha and did not receive his share. At any rate it is said: the paternal changarak (the upper circle of the tent) remained in the Great horde. Therefore the Little horde calls the Great horde "the offspring of the father" (ata balasy) and the Middle horde "the offspring of the elder brother" (aga balasy).

[1] [Not translated.: A]

173 the Middle /3/ horde (orta yuz) took the places suitable for droves of horses, and the Little horde (kshi yuz) the localities bordering with Russia.

173 618 A list of 92 Uzbek clans is spread among the Kazakhs in various variations, called the Nasab Namei Uzbekiia. According to Khoroshkin, this list owes its origin to a desire of the Bukharan Emirs to have a record of the traditions among the people about the 92 Uzbek clans. At the same time variants were produced even during the very collecting of 92 names, in spite of their alteration by the copyists.

173 233 In the list of the 92 Uzbek tribes it was said that when the 92 brothers became rich, their livestock began to get mixed. In order to show to whom the livestock belonged, the brothers, in consultation with each other, chose 92 signs or seals /tamga/.

The antiquity of the seals is confirmed by the fact that many of the names of the clans, and still more often those of the lineages, originate from names of the drawings on the seals. The study of the seals is important for the history of the Uzbek clans. The discovery of a clan seal in a certain place on a tomb or other monument can prove that that very clan nomadized there at some time. (1)

1. V. P. Nalivkin.

The seals serve in place of the inscription of a name on tombs and on every sort of document. The seal is branded primarily on horses and camels, and from the left side (from which the horse is mounted). The part of the body where the seal is branded differs in different clans. For example the Turaigyr lineage brands its seal on the head, the Kukkuz on the flank, the Kaz and Kedel on the shoulder, the Karakypchak on the belly, and one lineage of the Kypchaks, living around Troitsk, on the haunch. The seal is not branded on sheep and cattle, but they make a cut in the ear, the right or the left. This incision is called en, kez. Sometimes they make several strokes on an animal's cheek in place of the seal. This is called surma. Although anyone who wishes to distinguish his livestock can invent a seal, an en, etc., for himself, once he has established this sign he cannot change it except in the /4/ case of allotment to someone or as a result of the increase of the i[illegible] livestock (1)

1. Cf. supplement No. 2. *

*[Not translated -- A.]

4:Grodekov--4 E-5 (ca. 1885) 1889 RQ2 Kazak RQ2

The father of the Kirgiz sprang from a mirage (sagym). He 773 reigned among the Kazakhs and married one of their girls, from whom he had a single daughter. The father appointed 40 female servants to her. At one time the Khan's daughter came with her 40 servants to a great river, where she noticed floating foam. As they watched the foam the girls heard words coming from it: "You are right and I am right" (antalkhak mende ak). (2) Out of curiosity the maidens dipped their fingers in the foam and then licked them, and it soon turned out that all of them were with child. Khan Sagym expelled them to the high mountains for he did not wish to kill them. Finding food in the mountains, they gave birth to 40 sons and 40 daughters, a total offspring of 80. When they grew up, these children married among each other. The people which took form from them became called the Kyrgyz (kyrk-kyz, 40 maidens). The Kirgiz remained living in the mountains and the Kazakhs in the valley. In the course of time some of the Kirgiz became famous and left clans to follow them, others degenerated and disappeared without forming clans. The name of one clan chief was Ung /On/ (the right), the name of another Sol (the left). The first descended from the daughter of a khan, and the other from the daughter of a vizir. Kirgiz clans descended from both of them.

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The Kazakh nobles or white bone (ak suyek, tiuria, sultan) do 565 not reckon themselves as belonging to one horde or to one clan. They do not divide into lineage (undivided, "tagk"). They are descendants of khans ruling in the steppes, for example, Ablai-Khan. According to Sultan Daulet Bushaev of the Perovsk uyezd, the Tiuri are descendants of the Caliph Abbas (ibni Appas), and at the same time also descendants of Chingiz Khan. /Inserted Plate[1] Caption: The white bone.

[1] [Not reproduced—Analyst]

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2. The form of these words is more correct in the History of the Khanate of Kokand by V. P. Nalivkin, p. 15: ana el'khak mana el'khak (and that is the truth and this is the truth). The story is also found in Puteshestvie po Okrainam Russkoi Azii/ A Journey through the Borderlands of Russian Asia/ by M. Veniukov, St. Petersburg, 1868. p. 155.

565 Sadyk, son of Kenisary Kasimov. /

/5/ One of the local singers, by the name of Maikut, relates
565 that a certain princess whose father never let her go out, but kept
773 her shut up in a dark room, became pregnant from an accidental ray of the sun which entered. Her father threw her into the water, but a hunter named Dompol saved her from it. From the ray she bore the chief of the clan of the ruling families (Chingiz Khan), and from Dompol she bore the sons Burgeltai, Budanatai, Tabanatai and Targaitai, from whom the Tiuri among the Kazakhs are descended.

565 The present Tiuri (nagz tiuria) are considered to be those whose mothers as well as fathers were of the white bone.

Hodjas and Seids also belong to the white bone. Hodjas are considered to be the descendants of the fellow champions of the prophet, and the Seiidy, who are not numerous among the Kazakhs, are considered to be descendants of the son of Hussein, the imam of Zeinulabuddin, and therefore the best of the hodjas.

The hodjas live in tents around holy places, for example, Baba-Ata, in the Turkestan uyezd, in the northern spurs of the Kara-Tau. They are engaged in agriculture, transport and learning, and bear more resemblance to Sarts. There are also hodjas from the nomadic Kazakhs, in the Kurama uyezd, around Toi-Tyube among other places. There are no hodjas among the Kirgiz of the Auliye-Ata uyezd and the Fergana region.

In contrast to the white bone, the remainder of the people are called black bone, kara suyek, and also subjects, karashi, pukara.

The law at present, and the customary law as an example of it, makes no distinction between the white bone and the remainder of the people. When the aksuiaks are courteous, they are shown special respect. But when there is friction with them they are told: "We too are given freedom; when we are treated roughly we reply roughly." (Mikebai, bii of the Perovsk uyezd). In the Auliye-Ata uyezd, the privileges of the white bone are absolutely denied.

Marriages are now concluded between the white and the black bone without obstacle. As before, however, the woman of the higher /6/ estate who marries one of the black bone loses her estate advantages and undergoes a curse (Sultan Daulet Bushaev).

The Tulenkut were clients and riders /dzhigit/ from the poor, serving the Tiuri and being adopted by them. Formerly they served for the allotment of property (inchi), or for a bride price or in general for maintenance. After receiving the bride price or inchi they continued 565 to serve their masters, from whom they received various gains. The former Tulenkut are still servants now, but for pay. The name, in addition, is going out of use.

Among the Kirgiz the manap are the best people, descending 565
from a whole line of biis. Yet they do not receive any more honor 554
than all the good people, in general. Manap is not entirely a title
of descent. If the son of a manap is worse than the father, wicked [558]
or impoverished, then he ceases to be a manap. On the other hand, an upstart from the simple people, even though he be a good person, cannot be a manap. Biis can and could be in the past not only manaps but also non-manaps, without distinction. (1)

1. Communication of bii Kurpetai Dauletkulov.

The honorable Kirgiz Mulla Asan, a manap himself, communicated the following concerning the manaps:

"Manap is a title similar to the Russian Prince. Not a single manap is descended from the house of Chingiz Khan. Those who stood out from the people (yurtan ozyb), who were outstanding for their bravery and generosity and who commanded the people at times without leadership became manaps. At times of enemy invasions they assembled all the people and those who commanded them (el bashlagan) were those who themselves stood out among the other manaps (uzi ozyb chykkan). They were not elected, but if they began to have elections, they would elect them.

"There are no genealogical registers of the manaps.

"In the Auliye-Ata uyezd now the following persons with their kin are considered to be manaps: I (Mullah Asan Dzhangel-Din), /7/ Kydyrali Nurakov, Shadybek Sarymsakov, Nazar Khangel'diev, Kanai Bekmuradov, Seid Kachkin, Egemberdi Usekov and Irsali Nurav. None of these are related to each other."

There are no Tiuri or Telenkut among the Kirgiz.

The slaves (1) freed by the Russians, have been completely lost. 567

1. The slaves were called kiimdy tugan bala (son, born clothed).

Apparently most of them returned to their native lands. Part of them began to marry Kazakhs, and some became mixed with them by adoption.

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576 The order of seniority is observed: 1) at the division of military booty (oldzha). Even though the man who first captured the booty may wish to take the lion's share of it for himself, those who are senior by birth usually take their share first; 2) in entering the house (nukhtagasyb kiredi, they enter in order) and in sitting down in their places. The most honorable place is opposite the entrance; 3) at the opening of a festivity (tui bystagan), they argue as to who, as senior in the clan, will begin the singing (ulen), for this one customarily receives a gift; 4) in the quality of the food served.

618 The seniority among the hordes, clans and lineages goes by direct
line. The last clan of the Great horde has precedence over the most
576 senior clan of the Middle horde, etc. This is justified by the fact that
the ancestor was senior (atasy ulkun). (2)

2. Among the Mogols the khans are succeeded by their youngest sons, i. e., those who have not received allotment. Even now the youngest sons, as inheritors of the father's tent (ulkun ui), acquire greater fame from the fact that they arrange the funeral and the wake. Guests and petitioners for the usual gifts and sacrifices come to them. Finally, they enjoy great respect already during their father's lifetime. They are only obliged to honor their elder brothers. After the death of the father the guests appear first in the home of the youngest son in order to honor the memory of the father (arvakh siileimiz, we honor the soul), but for counsel they turn to his elder brother.

The Dzhalair clan is now considerd the senior clan of the Great horde. At feasts when the food is served they ask if there is someone there from the senior clan Dzhalair (nukhtagasy Dzhalair barma?), in order to serve him first. At weddings the Dzhalairs begin the singing, and if none of them are present the Oshakty begin it.

618 /8/ There are indications, however, that at the beginning this clan was not the oldest in origin. Umurbek, bii of the Auliye-Ata uyezd, transmits the following story: Once Dzhalair rode out with orders to take horses from adversaries. Having stored up a large number of halters, (nukhta), he succeeded in driving in far more horses than his comrades. As a result of this, he received the nick name of nukhtagasy, which from that time on began to be used in the sense of elder in the clan. Nukhta-agasy means master or chief of the halters. /The informant/ Torgai, who admits that Dzhalair might have been younger and became senior as heir of his father's changarak /tent ring, i. e. tent/, repudiates

this story, however, on the basis that nukhtagasy does not come from 618 the word nukhta. The Kazakhs of the Oshakhty clan maintain that Oshakty is older than Dzhalair, although the latter has precedence as the lawful (nikeli) son. Yupar Baibishe, the mother of all the clans of the Great horde, from the lust which she conceived for a man who was walking beside her husband, bore a son without relations with him. She thrust the baby into the hearth (oshak), for which reason the people who found him gave him the name Oshakty. After him she bore a lawful son Dzhalair.

It is customary to give certain food to the honored person, i. e. 576 of the senior clan (nukhtagasy), the eldest in the clan or lineage (aksakal), finally the khodja, mullah, etc. If there is some to give, the honored person receives tea, millcakes, fruit (1) and the following pieces of meat: to the first, the head of the animal (2) or, according to other people, the head with a flank (ianbas) and a haunch (mykyn), or the head with a flank and hooves; to the second person the flank (ianbas); to the third the thigh-bone (ortan yilik, ortai ilik); to the fourth a leg from knee to shinbone (asyk yilik); (3) to the last the shoulder (dzhaurin). The fat under the horse's mane is considered to be one of the very honorable pieces.

According to data from the Auliye-Ata uyezd, pieces of mutton have the following sequence in degree of honor: the orta yilik /9/ (the thigh bone of a front leg) goes to the young men; the asyk yilik (the leg, knee to shinbone, of a back leg) to women; ker yilik or kari yilik (the knee to shinbone part of a front leg) to the mistress of the house (baibishe); tus (breast) to the groom; iaurin (the shoulder and thighbone of a front leg) to the old men; tokpa (the thighbone of a back leg) to the grown girls (bui yitken kyzdarga); kiuimshak (the tail) to the women and girls.

According to data from the Kurama uyezd, the men receive: bas (the head), kabyrga (rib), umurtka (the vertebrae), bakai (the hoof and the bones over the hooves of all four feet), and the yilinchik (a little

1. Cf. supplement No. 3. 1/A

2. The tastiest part of the head is considered to be the nose.

3. Asyk is the knee pan.

1/A [not translated -- A]

57 above the bakai). (1) The women receive the yanbas (flank), ortan yilik (the thighbone) and ker yilik (the knee to shinbone part of a front leg).

Sultans, according to the opinion of Sultan Daulet Bushaev are not given heads, even though they are the most honored personages at a feast. It is customary to give them the asyk yilik (the leg from knee to shinbone).

According to bii Khalmakhammed of the Chimkent uyezd, rich men often regale their guests with the three lower pairs of ribs of a sheep, which are called sube kabyrga. They also give their guests kuirukbaur (2) even if they are not matchmakers (cf. chapter on matchmaking).[1]

The food, which is brought in on platters, (tabak) is given first to the most honored persons, who say a prayer (pata) such as: auveli kudanyng irzalygina, ikinshi tubanyng kabyllygna (or else murattyng asyyalygyna) mal bastyng bekeretine (for the grace of God, for the attainment of desires, for the thriving of the livestock and the people). When they themselves have eaten, they give what is left to the persons sitting below them. The guest gives (asatady) food from his platter to the host, putting the piece straight into his mouth or into his hand. The The leavings (sarkyt) are left by the guest to the daughter or bride of the host, and if there are none, then to the mistress of the household.

Among the Kirgiz the pieces of the animal are divided into samycha and kolmycha. These go in the following order of honor:

/10/ 1) The head with one flank goes to the aksakal.

2) The fat tail fat with the other flank goes to the biis, manaps, rich men, respected hodjas, etc.

3) Kashka yilik (dzhaurin among the Kazakhs).

4) Yuta yilik (asyk yilik among the Kazakhs).

5) Shivilchak or the shirak (bakai among the Kazakhs).

6) Both shoulders (taly).

7) Kung yilik (the armpits).

8) Kar yilik (the knee to shinbone part of a front leg).

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1. They give the sheep herder the neck (muyun) and the large intestine (kuten).

2. A small liver with fat from the fat tail.

[1] [i.e. - Chapter V -- A]

9) Tush (the breast).
10) Muyun (the neck).
11) Ichay karyn (the intestines) are given to children and women, who usually get nothing of the best pieces.

Seniority is not ranked by direct line, i. e., the brother of someone, older or younger, has precedence (ulkun yol) over the son of the same person. Uncles are met with greater honor than nephews. (1)

1. The Khan is succeeded by his brothers, then his sons, then the sons of the brothers.

Before old men (aksakals), i. e., elders, mullahs and influential persons, even of strange clans, they sit properly, do not contradict, and fulfill requests. It is customary to exact an apology and a fine for reviling them or scuffling with them.

If a low person should chance to sit between high ones, he can be ousted or allowed to remain, in view of whether he and his father are good persons or not.

If a high person unjustly abuses an inferior, then a bii may say [683] to him: "Look here. If you do that again, not he but you will be fined."

When a high person beats an inferior, he is not punished for three blows, inclusively. And if the inferior responds with a blow during one of the first three blows, then he must pay a fine. /11/ Envoys are not [648] abused and not killed, according to the proverb: il'chige ulum kharam, death is forbidden to an envoy.

Inferiors, for example, young women, do not walk in front of elders, but go around behind them. If they pass in front of them by necessity, walking or riding, they show them honor (tazim) by greeting them or by some other sign of respect. If a woman bars a road to men, they stop her and force her to ride across behind them (the Perovsk уезд. uyezd).

The Tiuri are greeted after the usual salaam by the additional word aldiiar. (1) Of proud Tiuri it is said: it is a bad Tiur who prides

1. Apparently instead of "alla iar", they say "May God be a protector."

himself on an aldiiar (aldiiarga mas bulgan yaman tiure).

To ride up to a person or to a tent at a gallop is considered blameworthy. Such a person is asked reproachfully: "What happened?

576 Did your father die?" They also avoid calling someone from a distance.

/12/ CHAPTER II.

The clan principle. - Custom

618 The enormous importance of the clan principle (1) stems from [695] the law of force: the individual finds defence only in his clan. The clan answers for his transgressions. The propitiatory oath is imposed not on the responsible individual but on another person from his clan. (2)

[672] The exaction of payment is also received not by the person but by the clan. When wergeld is not paid, not necessarily the murderer, [628] but any person from his clan is killed. A bride belongs not to a [587] person but to a clan. A widow goes to the nearest relative of the deceased, and a divorced woman must choose a new husband from [429] the clan of her former husband. The nearest kinsman is always the guardian. Guests are received according to their degree of kinship.

The bearers of the clan principle are the rich men and the senior elders (aksakals). (3) Beyond the names of their direct ancestors and their clan and lineage, the poor know nothing of the distant branches of their kin.

The volost administrators elected by the people retain their posts only when they belong to the strongest clan in the volost.

The decline of the clan principle is marked by frequent litiga-

1. On the clan origin as the most ancient stage of social development of all peoples, cf. Pervobytnoe Pravo /Primitive Law/ by Makim Kovalevskii, Moscow, 1886, Pt. 1. Clan.

2. Hence a man without a clan or a musafir always risks losing a case, being unable to procure his kinsmen to take the oath.

3. Among the Sarts the aksakal is an administrative figure- a village elder. Among the Kazakhs he is the person in a given place who has the highest authority by blood.

tions between close kinsmen and the non-payment of penalties and 618
debts for relatives. /13/ Among the Kazakhs we find the following proverbs concerning clan relationships.

Do not go hunting with a man of a strange clan. He will prevent you from shooting by being close beside you.

A fool will forget where he was born.

It is better to have a foal from your village /aul/ win a race than a horse of a strange village.

It is better to be a herder in one's own clan than emperor among a strange people.

He who does not know the names of his seven ancestors is a traitor.

A person who lives together with us still does not become a kinsman. A person who is a kinsman cannot become a stranger.

The dog does not forget the place where he ate, the man does not forget the place where he was born.

It is possible to be born together, but it is impossible to live together.

Do not call your own a bad kinsman, do not call your own eye (guard) bad, and separate him from the good. 631

In the law of 1867 on the administration of the Semirechie and 618
Syr-Darya oblasts it was recognized as necessary to divide the nomadic population into volosts and villages in order to divide the Kazakh clans, for it was considered bad from the political point of view to unite a large clan under the rule of one clan chief. On this basis volosts were formed in 1867 which were mixtures of various clans as much as possible. But leaving the nomads the right to transfer from one volost to another made it possible for them to evade the designated aim of the government, which was to weaken the clan principle. 631

In order to sum up the results of the constant transfers of the 618
Kazakhs from one volost to another in the period from 1867 to 1884, 178
data was called for from the uyezd chiefs of the Syr-Darya region, from whom the following answers have been received.

1) The chief of the Auliye-Ata uyezd explains that since /14/ the time of formation of the volosts the clan principle has lost its original importance to a considerable degree. This is supported by the following: a) in the people's courts those who swear the oath are no [695]
longer appointed by the biis as from such and such a clan or division to which the defendant or accuser belongs, but from the volost, village, group of fifty or group of ten to which they belong; b) when the guilty are unable to pay the fine of livestock for their criminal deeds, the

631 kinsmen (1) are not brought in, but the people in the same village as 618
the defendant. Then, depending on the size of the fine, either the
whole village takes part in the payment of the livestock, or only
those 50 or 10 tents to which the defendant belongs; c) the transfer of
nomads from one volost to another or from village to village takes
place, for the most part, to acquire land rights for agriculture, since
at present the nomadic population attaches very great importance to
[672] land use; d) the baranta /form of legal or approved private seizure of
[579] livestock/ has now ceased to a great extent. Robberies are very few.
[690] After murders it is not necessary to go the place where the blood was
shed to receive staisfaction. It is not necessary to revert to force for
suits and offenses, since if satisfaction is not received, they can turn
to the Russian authority, which will force the people's courts to try the
the case and satisfy the plaintiffs. Therefore in all cases of this kind
there is no need of seeking protection among kinsmen; e) Now there
is no seizure of land by one clan from another, which might cause
other clans to unite among themselves for purposes of defense.

178 1. Note 1 to item 161 of the Draft of a code on the
[672] Administration of the Semirechie and Syr-Darya Regions:
"If in the commission of a crime, damage is inflicted on state or private property, the guilty person, in addition to his personal penalty by law, is sentenced to compensate for the damage. In case of insolvency of the guilty person, the payment of the damages among the Kazakhs is referred to his kinsmen, on the basis of customs."

631 In spite of all this, an attraction to their clans does exist,
618 although some clans belong to several volosts. This is supported by
influential persons, the representatives of their clans, since the clan
principle helps to maintain /15/ their importance among the people
and helps in collecting a majority of votes in elections. (1) This
attraction is stronger in those volosts which are composed almost
exclusively of one clan, with villages from one branch. However
in the villages kinship in the female line is acquiring great importance.

1. The persons of the native administration, /namely/ the volost administrators and the village elders, are elected by the people, and the appointment is confirmed by the oblast or uyezd administration.

631 618

The vagueness and imprecision of the borders of the volosts and villages also adds to the importance of the clan origin. There are cases, quite often, in which Kazakhs belonging to one volost or one village occupy land for farming and winter camps in other volosts and villages. The organization of the land and the exact determination of the borders of the volosts and villages will have an enormous influence on the destruction of the clan principle. When every village has its own allotment of land then a transfer of tents will take place only for economic considerations and not to collect a majority of votes for one's kinsmen.

2) In the opinion of the chief of the Turkestan uyezd, the administrative division of the Kazakhs into villages and volosts has not by any means achieved its goal, and the clan principle is strongly maintained, as before. This is assisted, among other things, by the fact that the volosts were organized by clans or by branches, and all the transfers of Kazakhs from one volost to another were caused by a desire for clan unity.

3) The chief of the Kazalinsk (2) uyezd states that the division into volosts and villages with elected functionaries, has suppressed to a considerable degree the striving of the kinsmen to play the leading role or to influence the administration by the people. /16/ A land demarcation of the volosts would have had a still greater influence on the suppression of the clan principle. Even now Kazakhs of one clan but in different volosts, even in those very far apart, for the most part nomadize together on lands which they consider to be of the clan. For this reason they often do not allow villages to use the land although the latter have a greater right to it because of their permanent residence in those places and their revival of irrigation canals. [423]

2. On the transfer of the Kazakhs from volost to volost to their kinsmen, and on the force of the clan rulers in the steppe along with the volost administrators, see the article by E. A. Aleksandrov, assistant to the chief of the Kazalinsk uyezd: "Iz zhizni stepnykh uezdov Syr-Dar'inskoi oblasti" /From the life of the steppe uyezds of the Syr-Darya region/, in Turkestanskie Vedomosti, 1885, No. 17. In 1887 Mr. Aleksandrov writes: "Up to the present time a weakening of the clan principle has not been perceptible. In this respect the law of 1867 has not had the force of a destructive action."

4) The chief of the Kurama uyezd reported that there were no strong Kazakh clans in that uyezd, since its residents had already come here in small groups or singly during the Moslem rule. In transferring from volost to volost, the strong clans do not willingly separate their members, and the latter also are not anxious to break away from their clan. Those who do transfer are mostly the poor from broken clans. The Kazakhs who have strong kinsmen live more prosperously, because the rich help their poor kinsmen in difficult moments, and often pay assessments for them, while the poor pay for this in their turn by their labor. With the breaking up of the clans the poor, being left to their own devices, grow poorer from year to year, having no strong hand indirectly leading them. According to the opinion of the chief of the uyezd, the morality of the Kazakhs belonging to a large clan is considerably higher than the morality of the newcomers from broken clans. This is explained by the fact that the clan administration has not lost its importance even now, and the chief of the clan in the midst of the Kazakhs has even more influence than the Russian administration.

5) The Chimkent uyezd is occupied by Kazakhs of the Great horde, and the nomadic life is retained in absolute purity among them. Here every Kazakhs knows well what his clan is, his lineage and even his sublineage. The clan principle has been retained in full force, and with it the power of the kinsmen. The right reserved to the nomads to transfer from volost to volost has made it possible for the Kazakh clans to unite, and at /17/ the present time some single clan predominates in every volost. The volost administrator is elected from this predominant clan, and he plays the role of kinsman at the same time. The village elders are also elected primarily from the chief clan. Not one of the volosts of the Chimkent uyezd has territorial boundaries, and the tent proprietors in most of the volosts are scattered over the entire uyezd. Although the elective principle has weakened the power of a single kinsman in an entire lineage, it has brought with it the formation of a small clan aristocracy, the atkamnars. (1) The atkamnars are mostly former officials of volosts, or biis, or officials of villages, or even of groups of fifty. Since persons influential in the clan are elected for all these posts, 20 to 150 tents of adherents and relatives remain around them even after they have been replaced. The atkamnar is considered the patron of

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1. Atkamnar literally means "rider of a horse", and in a figurative sense, a rich person.

his adherents. He acts as their representative at elections and in court cases.

In confirmation of what has been said, we enter below a list of the volosts of the Chimkent uyezd, with an indication of the number of tents in each clan within the volost.

Aktash volost	Clans:	Sirgeli	889 tents
		Sikym	93 tents
		Seuvan	38 "
		Total	1, 020 tents
Akmolinsk volost	Clans:	Sty	956
		Oshakty	228
		Kangly	16
		Kongrad	2
		Total	1, 202
Arys volost	Clans:	Kongrad	1, 160
Aksu volost	Clans:	Dzhanys	884
		Chimir	841
		Sary Aisiun	40
/18/		Dzhagalbaily	62
		Sikym	139
		Argyn	9
		Botpai	3
		Total	1, 978
Bairkum volost	Clan:	Kongrad	1, 462
Bishtamgaly	Clans:	Sirgeli	156
		Sty	900
		Oshakty	289
		Dzhalair	134
		Total	1, 479
Buraldaev	Clans:	Chimir	1, 053
		Sikym	8
		Abdan	9
		Total	1, 070
Karabulak volost	Clans:	Sikym	1, 036 tents
		Shenshkyly	65
		Sirgeli	90
		Chimir	1 28
		Total	1, 319 tents

4: Grodekov--17 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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Karamurt volost	Clans:	Sikym	1, 344 tents
		Shaprashty	94
		Abdan	80
		Argyn	20
		Kangly	15
		Sty	19
		Botpai	20
		Oshakty	10
		Kirgiz	20
		Sirgeli	15
		Total	1, 637 tents
Kazykurt volost	Clans:	Dzhanys	1, 421 tents
		Adban	150
/19/		Sikym	50
		Sty	47
		Total	1, 368 tents
Kungei-Sirgeli volost	Clans:	Sirgeli	849
		Dzhalair	162
		Total	1, 011 tents
Mailikent volost	Clans:	Chimir:	1, 312 tents
		Kangly Shenshkyly	413
		Dzhanys	50
		Botpai	251
		Total	2, 026
Sarykul volost	Clans:	Kongrad	1, 455 tents
		Argyn	19
		Kerei	17
		Total	1, 491
Sirgeli volost	Clans:	Sirgeli	1, 827 tents
		Kongrad	12
		Total	1, 839 tents
Tilik volost	Clans:	Sty	1, 599 tents
Chayan volost	Clans:	Sirgeli	1, 034 tents
Chilik volost	Clans:	Naiman	705 tents
		Argyn	249
		Kypchak	152
		Hodja	154
		Total	1, 160 tents/sic/
Chui volost	Clans:	Sikym	900 tents
		Dzhagalbaily	156
		Total	1, 056 tents

Dzhanys volost	Clans:	Chegyr	416 tents
		Dzhanys	603
/20/		Sirgeli	11
		Total	1,030 tents

6) The chief of the Perovsk uyezd reported that the administrative division of the uyezd into volosts and villages existed only officially. Actually, the volosts and villages are composed either of Kazakhs of one clan or of clans which are close to each other, and this is confirmed by the following. Three volosts, located north of Perovsk, belong exclusively to the Kypchak clan, and although there are 150 tents of Argyn and 200 tents of Naiman among them, these have no importance among the Kypchaks because of their small number, and are under the influence of the Kypchaks. The Kintub volost is composed exclusively of Dzhappas and the Dzhappas clan also rules in the Tsarskaya volost, the Konstantinovsk, the Samurunovsk and the Chagan volosts, over the less numerous Bakhtiar, Hodja, Tazlar, Naiman and other clans. The Dzhumartov volost is composed of Kereit, the Bayuzak volost of Tabyn. The Karmakchi volost consists of Alshyn and Kereit, the Nikolaevsk Kysbugut and Yany-Darya volosts are composed of Chumikei, and the Akkyr volost contains Kete. The nomads are grouping themselves in their clans by means of frequent transfers.

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The custom according to which the Kazakhs live and are judged has the Turkic name zang, or the Arabic name adat. 171
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The origin of the zang, it must be supposed, is concealed in in that remote time when all the Turkic peoples now scattered over Asia lived one common life. This is proven among other things by the fact that such strongly Mongolized branches of the Turkic people as the Yakuts, Buriats, Tunguz and other Siberian natives have many customs in common with the Kazakhs. (The Collection of Customary Law of the Siberian Indigenous Peoples by D. Ia. Samokvasov). These common customs are: the clan principle, kalym /the bride price/, the bride's belonging not to the individual but to the clan, the exchange of daughters without the bride price, the term terkun with the meaning of "relative of the wife, the father's house of the wife", the fine of two head of cattle for stealing (among the Buriats), the expiatory oath, the disavowal from which conviction is established (among the Buriats), the /21/ increase of the punishment on the repetition of theft (among the Yakut), banishment for the fourth

671 theft (among the Buriats), the succession of the children without 171 allotment (among the Yakut), the obligation to reciprocate in giving gifts (among the Yakut), Suyunchi (among the Buriats), matchmaking at a young age (among the Buriats); the woman's lack of property (among the Yakut); her private property consists of clothing and ornaments; in place of the dead bride, her sister is given away (among the Buriats); the widow marries a kinsman of her husband (among the Buriats); she is free not to marry at all (among the Buriats and Tunguz).

Among the Kirgiz, the zang or adat is the same as it is among the Kazakhs, with small deviations.

671 In the customary law the customs of private life are not distinguished from judicial customs; moral duties are not demarcated from juridical duties, nor domestic and administrative payments from court payments.

In the old customary law there was no difference between authority, being of good birth, and the court and administrative powers.

The word "law" /pravo/ in the European sense does not exist in the Kazakh language. The word khak means: 1) truth, 2) God, and 3) the right to receive something.

The oldest law was the right of the strong. (1) There could be no individual rights. (2) Freedom (kengchilik) was not differentiated from willfulness. The violation of someone's interests led to a fight resulting in victory or reconciliation. In the course of time the custom was worked out of reconciliation on the basis of mutual satisfaction. Voluntary concessions, for example, kunakasy, the allotment of inchi, are founded on the fear of confiscation by force.

Now the individual is undoubtedly beginning to be conscious of

1. There are the proverbs: for one person two persons are God; "the people is holy", i.e., the will of the people is holy.

2. On the contrary, the individual was entirely in the power of the clan. In the customary laws of the Caucasian mountaineers articles were entered from the collection of Kaitakh customary laws of Rustem khan of the 12th century: "if any village which belongs to the Kaitakh society detaches itself, it must pay 300 rubles" and if any one person detaches humself from the society he must pay 100 rubles."

the possibility of making use of the conveniences put at his disposal 671 by the /22/ existing order, in the sense of freedom of action, protection by law from persecution, the appeal of decisions, etc. The closer to the town, the more the rights of the individual are respected.

The main theses of the oral tradition of customary law are the 671 same everywhere. The details vary according to time and place. There 178 is already fear that the unity of the Kazakhs is disappearing (kazaktyng birligi kitedi), as a result of the decline of the clan principle and the community of property. The changed conditions of life have brought forth the rise, so to speak, of a new customary law. This has been influenced by the conversion to Islam of the Kazakhs, the proximity of the Kokandians in the fortresses, the transition of a part of the nomads to sedentary life, and the moral influence and decrees of the Russian administration. The main features of the new customary law are: the limitation of the clan bond and clan property to a narrower circle, which was also the aim of the law, according to which the Turkestan region was administered until 1887; (1) giving brides and widows the freedom to choose a husband; the introduction of the use of written acts; the exchange of reckoning by livestock to reckoning by money, etc.

Now the old customary law has lost its force (adattyng kushi ketti), and a new customary law is rising. Formulas like these have begun to be used: in accordance with the customary law of the extraordinary session between these and these uyezds. A considerable part of the business of the present sessions of the biis consists of the adjudication of money for bills of exchange and receipts. Quite often such documents are examined as the certificates of Russian doctors, decisions concerning the capture of thieves corpus delicti, fraudulent records and receipts, reports with the special opinion of the minority, and information from the transport office. One finds complaints concerning the non-issuance of a copy with a decision, on the appropration of money which had been made over to be deposited in the uyezd pawn-broker's with the interest, on a silver watch which was lost at a prostitute's, etc. The session validates land and other decisions (osu ishni nygytamyz), collects the signatures of those who have been pacified, in /23/ anticipation of a renewed claim for the wergeld, and finally, it even ordains judgment by default, an innovation unheard of in the old customary law. Philo-

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1. The Draft of a Code for the Administration in the Semirechie and Syr-Darya regions, 1867.

671 178 logical innovations appear along with the juridical ones. As an example we enter the usual opening of the reports of the extraordinary sessions /chrezvychainyi s"ezd/ in the Perovsk uyezd: bz chirizvychainyi s"ez biileri yasaimizler ushbu purtukulni aning khakynda kim. . . . In place of "bii" one finds the "judge bii. "Disagreements can be heard among the biis concerning the actual character of the present customary law (toluk adat). Hence a desire has been expressed by several personages in the Russian administration to have a codex of customary laws, collected by inquiries and reviewed with the participation of experts, which could serve as a protection of the litigants from arbitrary action by the court.

671 Among the Kazakhs there is an inclination to the Shariat, which has been taught them by the more educated mullahs. Thus, for example, Aviz (of the Perovsk uyezd) remarked: "it is unfortunate that when the region was taken we did not request the Shariat for ourselves. There is no customary law, but there is the Shariat. " In answer to a question concerning articles of the Shariat which have not been foreseen by the customary law, for example, the right of the neighbor (shafi) as a privileged buyer, bii Umur-Beg of the Auliye-Ata uyezd has recognized the Shariat as more important than the customary law. Concerning conflicts between the Shariat and the customary law, he said: "We are slaves of the Shariat, we do not defend the customary law (shariatka kulmyz adatka talaspaimyz). " Only concerning the uncovering of the faces of the women (1) did he admit that this is a

671 562 1. In Yangabazar /Yangi-Bazar near Tashkent, the former volost administrator mullah Musa and the Kazakh Dzhumatai wanted to introduce the seclusion of women in their houses. But the Kazakhs continued to go in to see them (basaverdi). They said: "Our fathers and grandfathers did not force the women to be shut off; this is not in our customary law. " (ata babamyz katyrgan yok, zangy myzda yok). Mullah Musa had the same lack of success when he wanted to prohibit the singing of couplets (ulen) at the marriage of his daughter, since they are not sung among the Sarts. The arguments on the basis of which the Kazakhs consider it possible to depart from the Shariat on the question of covering the faces of the women, and not to consider it a sin to see their faces (kurgen ksi guneker bulmaidy) are as follows: 1) the Kazakh woman who has been acquired as a wife for money is the same

> as a slave (churi khisabi bulady), and 2) she is not easily beguiled by strangers since she lives on the steppe and works beside her husband, loading the camels, milking cows and nursing the children (bagane adamga kub kungul' bermeidi, bayina kyzmet kylyb tyuya artib mal saub bala chagasyna karab yuredi).

custom (minez rasm) of the Kazakhs and they enjoy great freedom (kazak keng bulady). Torgai spoke of the customary law in this way: 671 "The customary law is really a suckling pig" /24/ (chuchkanyng bel'gi balsy). He does not subordinate himself to the customary law. As Kyul'baev, a Kazakh of the Kurama uyezd, expressed it, the customary law is the stable boy of the Shariat (adat shariatyng yilaukeri). In the Kurama uyezd a small number of sedentary Kazakhs have accepted the Shariat, but most of them hold to the customary law. However the administration is constantly receiving requests to introduce the Shariat among them. The best people are judged by the kazi, where they can soon be absolved by their personal oath, while with the bii, the oath is imposed on a kinsman in the third lineage or further removed, which makes the position of the litigant more difficult. In the Kurama uyezd the people are asked if they want to be judged by the customary law or by the Shariat, and they know that the customary law is agreeable (makul) to the Russians.

In the books of the biis of the Perovsk uyezd one finds the phrases: "by customary law"," by the full customary law" (toluk adat buyunsha), "by the Shariat" and "by the law." The last, by the interpretation of several Kazakhs, is intended to give the decision greater force.

Makovetskii, in the foreword to the first part of his Materialy dlia Izucheniia Iuridicheskikh Obychaev Kirgizov /Materials for the Study of the Juridical Customs of the Kazakhs/, (Omsk, 1886), distinguishes innovations from old customs, relating primarily to precepts established under the khan Az Tauke. Khan Tauke assembled seven biis at Kul'-Tyube (in the Syr-Darya region) /old Tashkent uyezd/, among whom was the famous bii Tule Alimbekov, and these biis combined the old customs of the khans Kasym and Ishim ("Kasymkhannyng Kaska Dzhol"-The Pure Road, of khan Kasym, and "Isymkhannyng Iski Dzhol" -The Old Road, of khan Ishim) into new customs, called Dzhety Dzharga. These customs were not written down, but were given the form of short sayings and proverbs, which have been retained to a considerable degree until now, and enjoy universal respect. (1)

1. Levshin says of khan Tyavka (Tauke): This is the Licurgus, the Draco of the Kazakh hordes. He lived in Turkestan, and commanded all the Kazakhs, as a whole. For the supervision and direction of each horde there were three chiefs subordinate to him: Tylya in the Great horde, Kazbek in the Middle horde, and Aitak in the LIttle horde (Part II, p. 64).

Bii Mikebai of the Perovsk uyezd acknowledged himself to be in complete ignorance /25/ of the tradition related above. He had only heard the expression: "kazaktyng kaska yoly" in the meaning of the "the real customary law of the Kazakhs." The biis Sultan and Khalbii know that all three hordes used to gather annually for conferences (maslagat), (1) on the Martube hill (in the mountains near Sairam).

1. Concerning the gradual change of the customary laws of the Caucasian mountaineers under the influence of maslagat, both of courts and of councils, see Adaty Kavkazskikh Gortsev /The Customary Laws of the Caucasian Mountaineers/, pp. 7-22.

near Sairam). The subjects of the conferences were questions of where to camp in the winter, where to go in the summer, how to achieve peace (buitsek tynchyimyz) and how to make war. But bii Sultan states positively that they did not change the customs (rasm). Until a new meeting of the hordes, the decisions of the last one were not broken (buzbeidy). Under Tauke khan, seven biis met together, "dzheti dzhargysh" or more exactly, "dzheti dzhargy," i.e., seven collaborators (ish bittiretgun). Among their number there were three eminent biis, one from each horde: Tule from the Great horde, from the Middle horde kaz dausty Kazbek, i.e., Kazbek with the voice of a goose (loud), and Aiteke from the Little horde. Sultan and Khalbii do not know that Tule Alibekov (and not Alimbekov) and the other biis combined the customs of khans Ishim and Kasym. The pure road of khan Kasym and the ancient road of khan Ishim are to them two names of one road through Kuk-Tyube, around Turbat, along which the khans had to nomadize when the Karakalpaks, having conquered Tashkent, expelled them from the valley. They do not give these expressions the significance of customs. At that time Tule ruled Tashkent, while he himself lived

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in Sar- Tyube, near Tashkent. In the village of Kybrai lived his kinsman Kybrai the batyr. In the village of Bairikurgan lived his kinsman Baitik. In his old age Tule made his stable-man Yunus-Hodja of the Halcha tribe a collector of taxes or duvanbegi in Tashkent. After the death of Tule, Yunus-Hodja expelled the Kazakhs from Tashkent. The war with them continued for 15-20 years, until Mamet Sherif-Atalyk who came from Kokand to help him, vanquished the Kazakhs. This was about a hundred years ago.

Concerning the same question of the Kazakhs in the Chimkent uyezd /26/ Isa Batyrbekov reported: "Esim Khan or the stoop-shouldered man Esim (esegey buli er Esim), as he was departing for Bukhara, told his vizir Kasym-Khan that he should be khan until his return (hence his nickname Khantursun), but made an agreement with him that he should not kill Esim Khan's family. After his return, 12 years later, Esim Khan found his family imprisoned in the Cheb or Khanym-chebi fortress on the upper course of the Sairam river. The proverb "the pure road, etc.," signifies the Kazakh customary laws established by both khans, or else the military road through the villages of Sailyk and Khatynailyk."

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/27/ CHAPTER III.

602 Degrees of kinship. -The authority of the parents. -Age of majority. -The clan of the mother. -Adoption. -Guardianship. -Blood brotherhood.

An unknown person receives questions first of all about his clan (Ne el sen? Syuyaging ne?). If the inquirer is of the same clan, then he asks about the lineage, then the sublineage, etc., down to the group, after which the direct descending list of the ancestors begins. Each is supposed to know his ancestors. "He who does not know seven ancestors is a backslider," says the proverb (yete atasyn bil'megen murted). (1)These inquiries serve as a testimonial of the individual. Guests are received graciously or rudely on the basis of the recognized degree of kinship. Kinship is reckoned, as they say, to the fortieth degree.

618 Transfer from one clan to another is impossible, but living and nomadizing with a strange clan is permitted.

582 Marriages are concluded between hordes, clans, lineages, etc. to the seventh "ancestor", i.e., the seventh degree of kinship inclusively, by the male line (2), and in the opinion of several people, to the fourth and even the third degree. Among the Kirgiz, according to the statement of bii Kurpetay Dauletkulov, marriages are concluded to the fifth generation. At the present time, closer relatives marry, even from the second generation, for which they are reproached by the words: "You are spoiling the customary law." But they do not dissolve the marriage and do not impose a penalty. (3) Mullah Asan

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1. We were able to ascertain more than once that even children aged 10-11 knew their seven ancestors exactly.

2. Matchmaking takes place when seven ancestors have passed (yete ata utkensong). If anyone has a love relationship with a person more closely related than this degree of kinship, he is banished from the society (yurttan chygarady). Communication of bii Khalmakhammed, Chimkent uyezd.

3. In the Svanetiya "Even those whose kinship is reckoned at the twelfth degree cannot enter into marriage." (Vestnik Evropy, August, 1886).

confirms this: "Earlier, among the Kirgiz as well as /28/ the Kazakhs, brides were taken from the seventh genaration; now they choose from the third degree, and are even beginning to choose them from the second degree, in accordance with the Shariat. Manaps and the simple people do not differ in this."

They do not calculate at every matchmaking how many generations (ata) have passed since the common ancestor of both parties, for it is always known which lineages can conclude marriages between each other (kyz alysady), since they represent the seventh or further generations of a common ancestor. It is equally well known which lineages and sublineages cannot conclude marriages, (kyz alyspaidy), because fewer than seven generations have passed since their division. Between lineages which cannot intermarry, it is not acceptable to answer each other in singing at a wedding.

The reason why the Kazakhs do not take brides from a closer degree of kinship is, first of all, that with close marriages there would be embarrassment between the boys and girls of one village, and there would be no restraint against their having intimate relations (oy nasady), and secondly, in such marriages there are few children (tukhmi usmeidi, "their family does not grow") (1), and also the husband does not love the wife (syuimeidi), and it is reported (nakl bar) that he is usually weak in the sexual relation (urgachiga kemkuvat bulady). Bii Sultan Kanaev adds that this is why the biis established (tokhtatkan) the present order of more distant matchmaking, in conference with each other (akyldaskan) and not breaking the Shariat (shariatka kabyl).

Kinship in the female line does not obstruct marriage, with certain exceptions.

It is impossible for a father to marry a mother, when a son has married her daughter, and vice versa.

Two sisters are not married to two brothers. Brides /Inserted

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1. The same motives restrain the Kanak in New Caledonia from choosing a bride from their village: Jamais un Canaque n'épousera une femme de son village. Ils disent qu'en se mariant entre eux, ce sang s'appauvrit, tandis qu'en prenant une femme d'un autre village ou même d'une autre tribu, il s'améliore; et puis, de cette manière on se fait des alliés en cas de guerre ou de querelles. (Bulletin de la Société de Géographie de Paris, 3. trimestre 1886. Aperçu général sur la Nouvelle Calédonie, par Octave Opigez, p. 437).

582 page. Picture.* Caption: The Kirgiz manap mullah Asan Dzhangel'din, of the Auliye-Ata uyezd. / /29/ of two brothers must be no more closely related than the third degree of kinship.

Sisters may marry two first cousins, but even this is not done eagerly, and they say it would be better to establish a bond in two places rather than in one (eki tamyrdi br tamyr kylmaimyz).

It is impossible to marry your step-sister (not your own-ugei), from the same father but another mother, and vice versa. It is impossible to marry a step-daughter, whether a maiden or a widow. (1)

1. "Anyone who did that would become an infidel /Kafir/" cried bii Khamahammed.

*[Picture not reproduced--A]

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587 A widow may marry a step-son, born by another wife of her late husband. A widow does not marry her father-in-law, but she does marry his brother. A daughter cannot marry the brother of her father's wife, but she can marry his son.

It is impossible to marry one's step-mother (ugei sheshe). If a widow with her son goes over to the older or younger brother of her husband, who was already married earlier, and if he also dies, then a son can marry his widow, i.e., his own step-mother, as Torgai expresses it, by the Shariat, but not by customary law. If the wife of the uncle does not become one's step-mother, then one can marry her also according to customary law (Torgai).

According to Khamahammed, Chimkent uyezd, it is impossible to marry the son's widow /or/ the wife's mother. The son of one wife can marry the step-daughter of his father by another wife.

In contradiction to Makovetskii, Pt. 1, p. 2, this bii finds that two brothers can marry two sisters, or one can marry the mother, and the other the daughter. Sultan Abulfaiz, of the Chimkent uyezd, says the same thing, stating that he has encountered examples of it.

To marry the sister of one's step-mother is considered reprehensible, although this does happen for love. The Kirgiz Kurpetai Dauletkulov says that such a marriage is illicit.

/30/ The sister-in-law, the sister of the brother's wife, is considered the blood sister until the death of the brother. Therefore it is impossible to marry her until this time.

587 It is impossible to marry the wife's sister (baldyz), as long as the wife is living.

After the death of a wife, the husband demands her sister for himself in marriage, if she is still unspoken for, or her kinswoman, with the payment of a bride price minus 6 head of livestock from the distribution of the yakhsy. (1) 587

1. On the yakhsy, cf. below.

When the wife's father demands that his son-in-law marry the baldyz /the wife's sister/, the son-in-law can refuse, but for such a refusal it is customary to compensate the father-in-law with a horse or a khalat /coat/, excepting only the case when the refusal is based on delinquency or some sort of inadequacy of the bride.

It is impossible to marry the wet nurse (eneke) or her sister (emekdas), but it is possible to marry her close relatives. 582 [565]

The white bone marries among its own group, and they take brides from the black bone, but they do not marry their women to the black bone.

According to customary law, a teacher should not marry his student, although the Shariat does not prohibit it (Perovsk uyezd). According to Torgai, the Shariat permits the marriage of a teacher (ustad) with his student but not between a woman teacher and her student. The customary law permits both. Among the Kirgiz it is also permissable.

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The kinship terms in Kazakh:
Father - ake (ata in Sart).
Mother - sheshe. She is also called apa (ana, ena in Sart).
Step-father - ugei ake.
Step-mother - ugei sheshe.
Son - ul.
Daughter - kyz.
/31/ Step-son - ugei ul, ugei bala.
Step-daughter - ugei kyz, ugei bala.
Elder brother - aga (ake in Sart).
Younger brother - ini (uke in Sart).
Elder sister - apa.
Younger sister of a man - kyryndas (singli in Sart).
Younger sister of a woman - singli.
Grandfather, father's father - baba.
Grandmother, father's mother - ulu ene, kar'ya sheshe, adzhe.
Grandfather, mother's father - nagashi, nagashi ata.
Grandmother, mother's mother - nagashi sheshe.

4:Grodekov--29 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

601 Mother's elder brother - nagashi, nagashi ata (taga in Sart and in Kirgiz).
Mother's younger brother - nagashi, nagashi aga (taga in Sart and in Kirgiz).
Aunt, father's sister - apa (amma in Sart).
Aunt, mother's sister - nagashi yenge (khala in Sart).
Father's elder brother - ata, nemere ata (amake in Sart).
Father's younger brother - aga, nemere aga (amake in Sart).
Nephew, son of elder and younger brother - nemere (dzhien in Sart).
Nephew, son of elder and younger sister - dzien.
Nephew, grandson of brother - shubere.
Grandson, son's son - nemere.
Grandson, daughter's son - dzhien.
Cousin, father's brother's son - nemere.
Cousin, father's sister's son - dzhien.
Cousin, mother's younger or elder sister's son - bule (khalavacha in Sart).
Cousin, mother's elder or younger brother's son - nagashi.
Second cousin - shubere.
/32/ Wife's elder or younger brother's son, in relation to her husband's son - dzhien.
Husband - er, bai.
Wife, - khatyn. Among the Kirgiz ayash.
First wife. - biabishe.
Other wives - takal, kshi khatyn.
Spouse's father /svat/ - kuda.
Spouse's brother - kuda byla.
Spouse's sister - kudacha.
Spouse's mother - kudagai.
Groom - kuyau.
Bride - kalyndyk (koruktyk among the Kirgiz).
Sister-in-law, wife of the elder brother - yenge.
Sister-in-law, wife of younger brother - kelin, kelinchek.
Husband's older brother - kainaga.
Husband's younger brother - kain.
Husband's older sister - kain bike.
Husband's younger sister - bikesh.
Husband of wife's older sister - yezde.
Wife's younger sister's husband - badzha.
Wife's older sister - kain bike.
Wife's younger sister - baldyz.

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Husband's older and younger brother's wife - abysin.
Husband's father - ata, kainata.
Husband's mother - ana, kainana.
Wife's father - ata, kainata.
Wife's father's father - ulu ata.
Wife's mother - ene, kain ene.
Wife's father's mother - ulu ene.
Wife's father's older brother - ulkun ata.
/33/ Wife's father's older brother's wife - ene.
Wife's father's older or younger brother's son - kain.
Wife's father's older or younger brother's daughter - yenge.
Wife's father's younger brother - kainaga.
Wife's father's younger brother's wife - yenge.
Wife's father's elder relative - kainaga, ulkin ui.
Wife's father's younger relative - kain, otau.

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The disobedience of children is punished by the domestic corrective measures of the parents. A son is punished by his father, a daughter by her mother, for the father rears the son, and the mother the daughter. The proverb "the son goes before the father, like a slave before a master" and others entered in Makovetskii, p. 28, Pt. 1, were found by E. A. Aleksandrov in the Kazalinsk uyezd. 593

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During the reign of the patriarchal clan principle, litigation between children and parents could not even be mentioned. Bodily punishment and humiliation before the people is customary for blows and offenses against the parents by the children.

For an offense against the father (a false denunciation, etc.) the son who has been given his allotment pays from one horse to one camel, and among the Kirgiz, an atton, i. e., a horse and a long coat. He is obliged to slaughter the animal and beg forgiveness on his knees. They admonish him, saying: "Who is greater: you or the people?" (yurt kup pe, sen kup pe.). And finally the elders and aksakals beat him without counting the strokes until he repents. In a similar situation a daughter who has received her allotment is not subjected to bodily punishment. The penalty for her is paid by her husband. Among the Kirgiz, her mother beats her.

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For stealing from parents, children who have received their allotments are not accountable at all up to three times, for it is considered only a secret taking away (yasyryb algan). Only the

593 fourth time are they obliged to return what they have taken. The
685 son of a married daughter, who has not succeeded in being granted
something from his grandfather, takes it without permission and does
not give it up for /34/ the first three times. The fourth time the bii
sentences him to return the thing without a penalty, but a penalty is
fixed for a fight at the time the thing is taken. All this relates also
to the close kinsmen in general.

When the thief denies his guilt, the bii interrogates witnesses, but he is not sworn among kin. Incidentally the bii consoles the father (or kinsman) by the fact that he takes from the son in his turn when the latter becomes rich (collected in the Perovsk uyezd).

593 Patricide is unknown in the steppe. For this crime they would
682 banish the offender from the society after a preliminary disgrace
E. A. Aleksandrov, assistant to the chief of the Kazalinsk uyezd,
says that the customary law is silent concerning patricide. The killing
of children can happen by mistake, and in such a case it is not punished. (1)

[847] 1. It sometimes happens that the Kazakhs in a fit of anger
and in general in matters of dispute, in showing their
opposition throw their children under the /horse's ?/ legs
of the adversaries, who not infrequently trample them in
fighting. Women especially practise this kind of opposition,
[628] throwing unweaned children under the feet of horses. Wergeld
in such cases is sought from the persons in the tent or in the
village.

593 Children who have not received their allotment cannot have their own separate property. But once they have received their allotment the father ceases to distribute his property to them.

[882] Until the age of 12-15, children are not yet of serious mind
(akyl toktatpaidy), and therefore sales, purchases, loans and other
[675] arrangements by them are invalid. Buying and selling done against
the will of the father by a son who has not yet received his allotment
is not broken.

The power of the mother rests on the power of the father. Children obey her for fear that she will tell the father.

When a father wishes to free himself from an incorrigible son, he gives him a small allotment, leaving him to his own devices to earn the kalym /bride price/ if he is unmarried. If this son is already married, the father expels him without an allotment, leaving him to earn

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this for himself.

/35/ In extremity, the father renounces his son, khatti bizar, bizar khatt, before witnesses. According to the Kirgiz Kurpetai Dauletkulov, the bii places his seal on the document (for khatti bizar actually means "a letter of renunciation"). The form of the renunciation is: "If you are killed, I will not demand wergeld for you. If you kill someone, I will not pay wergeld on your behalf." In spite of this statement, however, a father cannot evade the payment of [672] the wergeld for a murder committed by his son after that, unless, when he refuses to pay the wergeld, he permits his son to be killed as a punishment for the murder committed by him. A son who has been expelled by his father goes to one of his relatives.

Sometimes a daughter is given to an ishan or mullah (1) as an [782] offering favorable to God (nazr), provided that he is not within the forbidden degree of kinship, and also sometimes to a blood brother.

It is said that under the pressure of poverty boys are sometimes sold in the Perovsk uyezd (for 20 sheep for example). The Kirgiz Kurpetai Dauletkulov states that now they do not sell children.

A daughter is not sold, for there is a possibility of marrying her off for a small kalym. Bii Sultan Kanev recalls that in a time of famine daughters were sold for 1 or 2 heads of livestock or for 20-30 fillias /monetary unit equal to about 3-4 rubles/, and after the famine was over they demanded before him, bii Sultan, the rest of the payment up to the full kalym. The bii awarded the rest of the payment up to the full kalym of the category of "7 kulundi biya (2) and 2 buidak." (3)

According to customary law there can be no protest against

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1. The Kirgiz bii Kurpetai Dauletkulov adds: there are cases when a sick father promises to give his daughter to his ishan if he recovers.

2. Kulundi biya is a mare with a suckling.

3. Buidak is a two year old sheep. On the kalym /bride price/, cf. Chapter VI.

593 marrying off a daughter by force. Only the Russian law takes her into its protection.

[888] The support of old parents is the duty of the children. In cases of complaint the bii judges it in this manner. A father with no property can move in with a married daughter only with the consent of his son-in-law. (4)

4. E. A. Aleksandrov, Kazalinsk uyezd.

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608 /36/ A woman whose own milk is not adequate gives her child the milk of a cow, or with the permission of her husband, hires a wet nurse (eneke), who is called by the child "sheshe", like the real mother.

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884 Majority is considered to have been reached at the age of 15, or according to other reports, at 12 (Perovsk uyezd). From this time on the young man goes away, hires himself out and does his work alone, without permission. According to Abdrakhman of the Auliye-Ata uyezd, they are called minors (yas, sagyr - young, not of age) until the age of 13, and from 15 or 16 they are of age. A youth of 14 years can be considered of age or not of age, depending on his mind. In general, if a boy declares that as a minor he cannot answer before the court, or if he declares that in spite of his youth he is capable of carrying out an affair, the court will not find an obstacle to fulfilling his wish, without regard to his exact age. Among the Kirgiz, as Kurpetai Dauletkulov reports, majority begins from the age of 13. According to the report of the chief of the Chimkent uyezd, N. E. Blagovidov, boys are counted as of age at 12, and girls at 9. However girls are not permitted to give testimony as
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582 witnesses in court. According to bii Khamahammed, if a girl was spoken for (bata okugan) at the age of 4-8, then the betrothal is equal to marriage (bataning uzi bular iken) and she cannot refuse if the groom does not permit her to (chigalmaidy eri koymagansha). When the daughters of a rich man or of a butcher reach the age of 10, and the daughters of a poor man reach 15, then the customary law permits them to declare their unwillingness to marry the groom chosen by the father (tiymeymen dese adat kuteredi). This is explained by saying that the daughter of the rich man, who is fed and dressed better (achimi, yemi, kiymi taza), just as the daughter of the butcher who

lives on meat, reaches full age earlier (from the age of 10) than the 884
poor man's daughter (from the age of 15). Then Khamahammed 582
added: "I cannot speak for others, but I only know that I reached my majority (balagatka yettim), /37/ at 12, since from that time on I became capable of being the father of a family (kedkhudachilikke yarab idim). Other weaker people (nacharrak adam) mature only at 15."

Children enjoy the protection of the mother's clan (turkun), 618
when the father's clan is inactive or absent. There are cases when after the death of the father from the clan, let us say, of Chumekey, the boy is raised among his mother's kin, let us say, Dzhappas, and calls himself Dzhappas among them, to avoid coldness in his relations. However, in case the boy is killed, his own clan demands the wergeld and not his mother's clan.

If the deceased father has no relatives, the children go to the mother's clan. The son is free to go or not, for he can take a trade, but the daughter must go. They demand her in court.

No one can belong to his mother's clan. Even illegitimate [848]
children (kharami nikasyz) seek out their father, and are considered to be of his clan. Children born of a widow several years after the death of her husband, are in some places considered on an equal with the children of the deceased. (Perovsk uyezd).

Among the Kirgiz, those who have grown up in a strange clan do not cease to consider themselves of the clan of their father. But kharami bala, without a father, consider themselves in the mother's clan.

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Adopted children, inchiles bala, as the name itself indicates, 597
are sharers of the property alloted by their titular parents. The adopted son pays fines and wergeld and receives them just as the real children. When the parents of the boy to be adopted are alive, their consent is necessary for the adoption.

Mutual adoption or exchange of children is possible only between kin. The adoption of a child is announced before witnesses and is accompanied by the slaughter of an animal, from which a witness, the aksakal, puts the asyk /38/ yilik bone into the hand of the adopted child if it is a boy. The adopted one, showing it in his hand, takes some to eat. A girl can be given the tokpan yilik.

597 Touching the breast of the adoptive mother is a symbol that she considers the adopted one on an equal with her own children, whom she nursed, although she did not nurse him.

The adopted one is usually not considered as close as the true child, although he may gain more affection than the true children by his spiritual qualities and his services. The same can be said of adopted slaves.

When they wish to reject the adopted one, they give him an allotment only of inchi or only of kalym. In extreme cases it is enough to give him a horse for his departure. On the request of the adopted one, the aksakas may request the father not to reject his foster child without a serious offense (Perovsk uyezd). The adopted one, on his part, can always go away to his clan at any time.

The clan does not change through adoption, at any rate not now.

[582] According to the report of E. A. Aleksandrov, the adopted child (inchiles bala), coming from a clan and lineage with which marriage is permissible, can under no circumstances enter into marriage with those who have adopted him. This includes not only the family, but also the close relatives of this family. He is considered as a true son of the adopter and has a right to the name and the inheritance on an equal with the lawful children.

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429 After the death of the father, even though the mother is living, one of the close kinsmen takes the place of the father for the protection of the orphans (yetim), and the wards nomadize together with him.

This guardianship is not juridical but patriarchal, for which reason also there are rarely used words signifying the guardian: miraskhur, miras, mira(1), and according to Daulet Bushaev - vasy.

1. On hearing the word "mirasy" meaning "his guardian" they took the sy for a suffix and began to use "mira". Actually, the Arabic miras means inheritance, and miraskhur, the receiver of the inheritance. Among the Kazakhs these same words have received the meaning of guardian.

/39/ If no one remains alive in the tent but the successor, who is not of age, then he moves with all his property to the nearest kinsman (Perovsk uyezd). To this last kinsman other kinsmen come

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and take what they need of the orphan's property, saying "when you eat (1) why shouldn't I eat?" (sen yegende men yemeyminbe?)(Torgai).

1. To eat is the equivalent of to use.

Only when the closest kinsman is completely unsuitable to be a guardian, then by demand of the remaining relatives, a bii or aksakal appoints another, if possible a close kinsman, or to speak more precisely, they do not appoint but give the minor into his hands.

In the absence of men, a woman is invited to be the guardian, the mother or a close kinswoman, for although women are bought by a kalym, in likeness to property, and although oaths are not sworn from the woman's side, it is not denied that they have a mind (akl), or otherwise they would not be allowed to give testimony in court. When male relatives are not to be found, women are themselves considered guardians. Outside aksakals are invited to be guardians only in the most extreme cases. In general, the guardian is usually of a relationship no further than the seventh degree.

Also the very close kinsman of the killed man, who presents the claim for the wergeld, or he who defends the rights of the deceased when there is no very close kinsman, and takes his place, is designated as guardian.

When the mother marries a kinsman of her dead husband, the children remain with her. But when the mother goes to a new husband of a strange clan, then the children remain under the guardianship of the former relatives.

The insane, cripples, etc., are not deprived of their property. Their closest kinsmen are considered their guardians. Even though they cannot earn their own subsistence, they are given wives without breaking the rule that the sons are married in order of seniority.

/40/ For minor sons (up to 15 years approximately), their guardians intercede on their behalf.

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A girl must have the consent of her guardian to marry, if he is a kinsman. If he is not, she must have the consent of her closest kinsman. The guardian who is not a kinsman can only advise his ward, the groom or the bride, to defer the payment of the kalym until the spring when the number of livestock is doubled. The nearest relative can refuse his consent to a marriage which is desired by the guardian and the children themselves. The guardian is not forbidden to marry his female ward, with the observation of the usual rules. For example, when he is a close kinsman, he cannot marry within the forbidden

429 degree, and must pay the relatives of the bride a "relative" [582] /rodstvennyi/ kalym (ru kalyn mal).

The customary law leaves the guardian all the profits of an uncontrolled management of the property, as a relative, and in view of his cares in the guardianship. When he comes of age, the heir can request the return of a part of it.

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572 When promising to be a friend (tamyr, kyyamatty dos), something is given. The person who receives the gift is obliged to give a gift in return of equal value. The tamyrs alternately travel to each other and make a selection (kalau) from the livestock and nice things. The object chosen must be given and cannot be refused. In ancient times, complaints of not receiving a return gift of equal value were not customary. Now the biis calculate out in terms of money the sum of the value of all the gifts from both sides and compel the payment of the difference (the books of the biis of the Perovsk uyezd, bii Abdrakhman of the Auliye-Ata uyezd). However a court examination between blood brothers does not make a good appearance. The bii admonishes them: "Satisfy the desire (razykyl) of your tamyr. Afterwards you will go to him and he will satisfy your desire."

[608] Blood brotherhood consists in one friend's staying at another's during his departure, to be as though in his own home, and to borrow necessary things and livestock, though not otherwise than /41/ with the consent of the householder, his wife, or another of the household who knows of the existence of the blood brotherhood. At weddings, funerals and similar gatherings they also give each other gifts.

Blood brotherhood is also concluded between girls. It is also possible between different sexes. In the latter case, the term kyyamattik is used less, and tamyrmyk is more common.

For centuries friend has been called kyyamatti dos, dostamyr, dos. According to Torgai, things can be taken from a dos without permission, while with a simple tamyr it is necessary to ask. According to bii Sultan, the dos promise before God not to sue each other [illegible] about their mutual accounts (bir biri mizdan ber[illegible] alyskany myzny khudanyng aldynda suramaymyz).

According to Daulet Bushaev, eternal friendship is agreed upon on the Koran. According to Makovetskii (I, p. 45), it is settled by embracing with bared breast - kushaktaskan. I. Ibragimov states that they embrace each other across an unsheathed sword or across the Koran, which they kiss afterwards.

The children of tamyrs who continue the friendship are called ata tamyr. Spouses are called syuyak tamyr (hereditary friends). Other tamyrs are called "verbal" auz tamyr, as distinguished from the forms of strong friendship described above. Also they do not embrace. Torgai also ascribes to verbal friendship or simple acquaintanceship the friendship which is confirmed by squeezing the palm of the hand, barmak ustaskan. The proverb - friends always argue, people of the the same age are always hostile - (tamyr tube dau kurdas tube dzhau) - bears witness to the instability of the verbal friendship.

According to Torgai, this friendship / takyrstvo/ resembles the [608] custom of being considered as the representative /posazhennyi/ of the bride's father or groom's father (ukul ata) and the titular son or son-in-law (ukul kuyau, ukul bala). (1) One of these offers himself in this relation in order to receive a gift. After this they visit each other to receive gifts. When the titular son-in-law appears before the representative of the bride's father, the latter /42/ serves him breast meat (tus) just as he would his real son-in-law. But a good son-in-law, remembering that he is only titular, should not sit down in the place of honor /tur/.

According to bii Sultan, the ukul kuyau like a verbal friend, is only called son-in-law, but does not take a bride from the titular father-in-law. The latter may also be unmarried. The titular (tutingen) son-in-law lives with the titular father-in-law until his wedding, and then usually departs to his relatives. He also receives inchi, but less than the others who receive allotments. However before the allotment the father-in-law asks him if he and his wife will remain living with him. In case of a refusal, the former gives him a horse and a tent packed on a camel, and if there is no tent, then only blankets (tu sek orny).

Most young men usually have confidantes, "arifdas." It is permitted to take pleasing objects between them without asking permission. They give each other various trifles. Confidantes usually give bands for coats, and belts which they have made by hand. When young men meet their confidantes in private they touch their

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1. Ukul is a corrupted form of Arabic vakil.

572 breast. They visit the tent of their confidante under the pretext of wanting to know if there is any buza. If there is buza in the neighboring tents and they cannot drink together, then the girl is sent a cup of buza (1) secretly by children. She replies by sending a gift. They send each other greetings (salem) and verses (ulen). The young man sometimes even accompanies his confidante in the wedding procession to the village of her father-in-law, where she gives him a farewell gift. Her husband is not offended, since he has also had a confidante himself (Tashkent Kazakhs).

Among the Kirgiz, friends (tamyr, bilish) also give each other gifts. The doslyk is friendship which is unbreakable in this world or the next. Friends /dos/ embrace each other sometimes across a saber or across a knife. After the embrace they eat bread (nan toraydy). Among the Kirgiz youth there is also an "arifdash," but of course it is in secret, as the bii added when he reported this.

/43/ CHAPTER IV

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The allotment to the sons. - Inchi. - Succession.

On the father lies the care of providing each son with kalym and an allotment, inchi. (1)

Among the Kazakhs and Kirgiz, the allotment to the sons, which depends entirely on the father, takes place in order of seniority and after their marriage.

An inducement to allotment is usually the crowdedness of the dwelling and the intractability of some individual.

The time for the allotment to each son also depends on the situation of the father's affairs, and is determined in the circle of the family, but not before the son is 15 years old, by the proverb: "at the age of 15, the master of the tent" (onbesh dzhil otau iese). Among the Kirgiz it is not before the age of 13 years, when majority is considered to be reached.

If the son requests it and the father does not wish to give him

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1. Buza is an intoxicating drink, made from rice, millet or sorghum.

1. Inchi or enchi comes from the word en, the notches made on the livestock being divided, for differentiation.

his allotment at a given time, the son can wait or else leave without the inchi, but in the latter case he loses the right to demand it afterwards. They reply to such a demand by saying: "You did not wait for your father's consent." (atangnyng rizalygyna karakmadyng). In this case the son who is apportioning himself takes with him only what his wife brought at the wedding as a dowry. If the son behaves badly or does not know how to earn money and the father wishes to send him away the son will demand his father to give him a wife or an allotment. The people pacify them. If they are not pacified, then the part of the kalym which is not yet paid remains unpaid by the father, who sends his son away on a good animal (a good horse or good camel). /44/ This animal also takes the place of the allotment. If after that the son cannot earn the remainder of the kalym, then the father should pay it for him, for no father can avoid paying the kalym for his son. Otherwise the son is left to drive away the necessary number of livestock from his father's herd, without being considered a thief.

The apportionment of a son before he is married is always a sign of disagreement with the father. If the father becomes poor after that, the son, does not wish to support the father remembering his being given the allotment before his marriage. Then the people say: "We did not punish you then for stealing from your father (aibga buyurmaduk). Now feed and care for him." (as aukatyna kara, kut). The son who does not obey this instruction is scolded, beaten and despised (avgar kylady) by the people (yurt). If a son positively wishes to renounce the care of his father, then the son must give him the dowry brought by his wife and remove himself completely from the sight of the father (kasynan). If a son asks to leave his father peaceably before marrying, then he is not given his allotment, as he would probably go far away and lose the property, which in general the people do not desire. If this son agrees to join his older or younger brother, who have already received allotments, then they do not refuse him his allotment. The property of both brothers remains separate, in anticipation of arguments or demands for division. If a son absolutely refuses to marry someone, his father does not give him an allotment. If the son requests an allotment under the pretext of marriage, the father answers: "I will give you a wife myself, and only afterwards will I give you the allotment. Otherwise get out. "In such a case the father is guarding against the squandering of his property. Such is the data reported by Torgai. According to other information (bii Mikebai), if it is heard that the son "senselessly" absolutely refuses to ever marry and urgently demands to be issued his allotment, it is given to such a one. Among the Kirgiz, Kurpetai Dauletkulov adds that then more is given, in view of the non-payment of kalym.

The father can apportion the younger son before the older if he wishes. Sometimes the older son says: "I will not part with my father, I will feed him until his death." After such a declaration /Inserted page. Picture of Torgai. Drawing by Akhmatov.[1]/ /45/ the portion is alloted to the next son, not always with consideration of inheritance.

Making the division of the property for an allotment is one of the most difficult points of the customary law. Apparently they cannot divide the inheritance and frequently invite in experienced people for the division (burun inchi bulib yurgen adamlar). The matter is complicated still more by the fact that those who have not received their allotment steal from each other. Some say that the man receiving his inheritance will not consent to have the father himself calculate the amount of the share, but demands the participation of the relatives in it.

The maximum allotment depends on the father. The minimum is determined by elders, who have moral authority but not court power (Torgai).

Less is expended for the kalym of the sons (about one-third) than for their allotments (about two-thirds of the total property of the father).

Having paid the kalym for his oldest son, the father does not give him his allotment until he has fixed a certain part to each of his sons for a kalym, not excluding even that son (the youngest) who does not have to receive an allotment.

When making the allotment to one of his sons, the father splits up the entire property, with the deduction of the kalyms, into as many equal parts (sybaga) as he has sons to whom he must make allotments, i. e., all except one younger one. In addition to these parts he also puts aside two parts to support himself and his wife in old age (Perovsk uyezd and the Kirgiz Kurpetai Dauletkulov). According to Torgai, the property is divided into as many parts as there are sons, with the addition of one part for burial (kurkeben asatau). If there is not enough property, then the last part is not necessary.

Everything that remains is inherited by the son who receives no allotment, and he lives with his father until the latter's death and buries him. If after giving allotments to his married sons the father dies and leaves nothing for the sons who have not received allotments,

[1] [Not reproduced--A.]

the former are obliged to marry off the latter. (Umurbek of the Auliye-Ata uyezd and the Kirgiz Kurpetai Dauletkulov). First cousins and other kinsmen have no obligation in this.

/46/ If the father dies, leaving 4 sons, a year later at the memorial service they slaughter an animal and say to the elders: "We will divide the inheritance, help us" (biz bulek bulek bulamyz, inchi mizdy bulib ber). The elders ask: "Do you want to divide it in four parts or in two (with two sons to each part)?" They divide the property into 4 or 2 parts, depending on the answer, but give the larger share to the oldest. If among the four sons, two are not married, then they cannot demand a division into four parts. The elders would not agree (buyurmaydy), to this and would divide it into two parts, combining an unmarried son with each married one, and the latter would take the place of the father for the former, i. e., he would marry him and give him an allotment. In this last division of inheritance they again divide the livestock in half, giving one or two animals to the older brother who has taken the place of the father.

If the mother is still living in addition to the four married or unmarried sons, then the property is divided into 5 parts. She can remain with her share with the son she loves most. The property of this son and hers are considered one (inchisi bir). He takes care of the burial of the mother. The other brothers give a small subsidy (yardam berisadi) for the funeral.

If of the four sons two are married and wish to divide the inheritance into two parts in such a way that both unmarried brothers will be with one of the married ones, then two kalyms are set aside at the beginning, according to the account made at the matchmaking, and only after that is the property divided into 4 parts. If the sons are not yet affianced the elders calculate the number of livestock necessary for a kalym. If the property is not enough for the kalym and the allotment, they set aside the kalym anyway in a generally acceptable amount, and give up the allotmen.

An unmarried daughter goes together with a brother who has not yet been given a kalym, so that from the kalym received for his sister he can pay the kalym for his own bride.

If two unmarried sons and one daughter survive, and there is little property, one son receives the property and the other the daughter.

If there is no property at all, the daughter is given to both brothers so that the kalym received for her is divided in half. In this case /47/ she can live with whichever brother she wants to. Both of them alike look after the clothes of the girl and her other needs.

(teng karab turady).

If an engaged girl remains who is not yet married (uzetpegen), the older brother is charged with giving her away in place of the father and bears the expense of the wedding (toy).

Let us suppose that the father has 10, 000 sheep and 10-15 sons. Then without setting aside kalyms and allotments for each, he simply gives the son to be alloted a minimum of 30 and a maximum of 100 sheep without any special calculation (the determination of the amount depends on him), and adds as many camels as are necessary to carry the tent and goods (for a small tent 3 camels, and for a large one 5 camels). If he had only two sons, he would divide all the livestock into 3 parts, without making a special share for the mother. In addition, before the division of the inheritance 3 or 4 animals are separated out for the use of the father, out of respect for him.

If a married son receives a tent (ui) from his bride, he also receives his allotment in this tent. If not, the father gives him a new tent, or the value of it.

If the father has several married sons and they have their own tents, but the livestock, of which there is very little, has not yet been alloted, and the father or the sons propose to divide the livestock, then the elders divide everything without allotment, not excluding even the youngest (if the father wishes) in order to avoid envy among the sons. After this if the youngest son does not remain with him, the father with his livestock can join whichever son he likes best.

When the division of property takes place after the death of the father, the valuables and household furnishings (uskene) all go to the youngest son, so as not to spoil the furnishing of the tent, but the older sons take their choice of the clothing in memory of the father (akemning kuze).

If the deceased leaves childless wives behind him, in his tent, then the younger ones go to his brothers and the older ones remain /48/ with the step-children they like or with those who have lost their own mothers. Good children support their step-mothers out of respect to the deceased, even though several should come to one step-child. If a step-mother wishes to go away after a quarrel, they give her nothing. If she goes away peaceably the elders award her something for support (as aukat) and she goes to her clan (turkun) or to her son-in-law. Children cannot be left by their own mothers. The biis and the children do not allow it.

When the married daughter, by custom, visits her father's house (turkundemek), the father is obliged to give her a horse or a camel at least. After the death of the father this is given by the heir to the father's tent (ulkun ui, akening shangaragy). If a rich man has several sons and married daughters, he invites the daughters for this visit (turkundab kel'mekke) before beginning the family division of property, so as to discharge the debt, for the turkundemek is considered a debt (karz). He gives 1 or 2 animals to the daughters as they appear and for those who do not come he puts a like number aside (shigaryb koy ady) which he keeps himself for safe keeping. After this the division of property is made. The father is not inflexibly required to remain with his youngest son if he does not like him. But wherever the father does join the "large tent" the elders give more livestock, in view of the guests and other visits.

When after the death of the father the daughters appear at the large tent to receive the turkundemek, the head of the household assembles his older brothers for a conference, to decide whether to give each of them a gift or to make a joint contribution and to satisfy them with the sum received. Some bring a sheep to the contribution, others a horse, a coat, etc. If all of them refuse, out of egotism (ku buldy), the master of the large tent is obliged to give a little himself, since he has received a larger allotment than the others. The daughter indicates this in her request: "The smoke-blackened circle of my father remains with you. You live where my father lived. His property went to you" (akemnyng kara shangaragy sende kaldy, san akemnyng oturgan yerinda otursen mulkderi sende /49/ kalgan). All guests, tamyrs, husband's kin, relatives on the wife's side and demanders of various payments come to the master of the big tent. His nephew, /dzhien/the son of the daughter who has received her allotment comes to receive the "dzhiendik" when he reaches his majority. If he does not receive it the nephew steals it without being considered a thief. Some children, anticipating this, do not even wish to be inheritors of the father's tent (all from Torgai).

The Kirgiz divide the property, if there is one son, into 3 parts, of which 2 parts are for the father and mother. The old tent remains with the father, and he makes a new one for the son. If the father has an unmarried younger brother in addition to a son, the brother is married off first, and then the son receives his allotment. If there are two sons and the youngest is at peace with the father, they do as above. If not, the father gives both sons together not less than one-third, that is, one-sixth to each. With three sons, the parents re-

428 linquish half, i. e., each receives one-sixth. In general they give as much as is needed for support. For this reason the elders tell those receiving their allotment that they are young and will still earn their living, and tell them to be satisfied with little. "I myself," added the informant, the Kirgiz bii Daniyar, "told my father, as I brought him clothing (sarypay): 'If you want to give me property, do so, and if not, then give me your blessing (fatikha).' " -

In addition to livestock, 1) the money of the father, if they all know of its existence, 2) land (1) and 3) debts are subject to the family division of inheritance.

428 If the debts of the father are discovered after the allotment,
426 then he is liable before the court and pays the son who received the succession. Formerly all the children paid the debts of the father after consultation with each other (kamtu klb). Now only he who receives the succession pays, and futhermore he pays it from his inheritance and not from what he has acquired, on which he is obliged to present proof or an oath. /50/ Children who have not received their allotments do not pay for living parents who are absent. Sons who have received their inheritance are legally not obliged to pay the debts of the father, because they cannot know about them, but morally they are obliged (khalal ul tuleydi). It is apparent from the books of the biis in the Perovsk uyezd that the biis reject claims against the sons for the debts of the father, basing themselves on the "exact customary law" (tolyk adat). Children who have received their allotments refuse to pay their father's debts, referring to the fact that "their portion is different, they have a special earmark" (inchim bulek, enim baska). But if they are ashamed to leave the debt to the father (atamyzga karz kylmaymyz), and wish to help the one who has received the succession, the debt is divided into 3 parts, of which one is paid by the successor, and two by the remaining brothers. Sometimes the rich sons are obliged to pay more, and the poor ones less.

Among the Kirgiz, according to bii Kurpetay Dauletkulov, the debts of the father are not adjudged to be paid from the inheritance. They only advise that a debt should be paid, if it is proven, because of the responsibility in the future life (kyyamet karz).

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1. According to reports from the Auliye-Ata uyezd, land is not divided, for those receiving an allotment ~~can s~~ can seek other land for themselves.

If the plaintiff appears before the division of the inheritance, 428 the debt is disposed of first, and then the division is made. If this 426 is found to be inconvenient, then the sum of the debt is distributed among the children in accordance with the allotment received by them. If the debt is greater than the property and the children wish to make the division (during the lifetime or after the death of the father), first of all something is put aside for a funeral and memorial service, and then the remaining property is divided equally and the debt as well.

If the father has only one daughter, then he must pay his debts from her kalym. After the death of the father a daughter without property is never answerable for his debts. However if the inheritance and the tent go to the only daughter, her guardian or "master" (kyznyng iese) is liable from the inheritance.

If a bride dies before her marriage, the part of the kalym which has already been paid is obliged (suzsiz) to be returned, with the father of the bride being allowed to give it to the court for those obligations of debt which the son-in-law took upon himself in another connection (books of the biis of the Perovsk uyezd).

/51/ The people require the son to pay the debts of his impoverished father on the grounds that the father went in debt in caring for the son (Torgai).

The inheritance (miras) (1) can consist of livestock, of money, 428 of a tent with domestic furnishings, and of land, and in former times, also of slaves. The saying "among the Kazakhs the wife is inherited, among the Sarts the land is the inheritance" (kazaktyng katyny miras, sarttyng yeri miras) testifies to the fact that the widow is considered as an inheritance. The children can also be called miras.

Except for admonitions, no wills are recognised. The father cannot will so much to one son and so much to another. All the inheritance goes to those who have not received allotments, i. e.,

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1. Perhaps there is inaccuracy in the division of means of acquiring property in Makovetskii (I. p. 37) as: 1) ata murasy - that inherited from the father, 2) uzi tabasy - that acquired oneself, and 3) burushty mal - profits from trade, matchmaking, loans and other affairs. At any rate Torgai divides property into: 1) ata murasy or ata mul'ki and 2) uz tabkany. But he did not understand the words burushti mal. Is this not the Russian word barysh /profit/?

428 usually to the youngest sons, who are also obliged to bear the expenses of the funeral and memorial service. If the father wished to deprive the son without an allotment of the inheritance, the son would demand it through the bii, who would grant it to him unfailingly. The only means of depriving the younger son of the inheritance is to allot it earlier to the older son, while the father is living.

If the children of the deceased are under age and his wife young, the brother of the deceased, who marries her, rears the children until their maturity, so that there can be no argument about inheritance. If no children remain, the expenses as are covered from the inheritance, and the rest they divide among themselves. A daughter who survives the deceased is brought up by kinsmen, who use the inheritance to marry her off. From the remainder one-third is given her under the title of an allotment /inchi/, and the remaining two-thirds is divided among them. (2)

2. Communication of Chinybekov.

If in addition to children a brother of the deceased remains who has not received an allotment /52/ the property is divided in half between the nephews and the uncle (if they want to divide it). From the half received by the sons of the deceased, each son receives an equal share for his allotment, after the division of the kalyms for the unmarried.

If after the death of a son only the father and brother remain, the father, as the giver of the allotment, receives all the property of the deceased, although he can give part of it to his son out of good will. The same thing is true among the Kirgiz.

If there are no children the brothers are the successors. If there are no brothers, the male first cousins (nemere), then the second cousins, etc. Only when it is impossible to find any male relatives, is the inheritance given to the daughters and their husbands. According to Torgai, the inheritance is never received by the daughter because she always marries into a distant clan. The Kirgiz Kurpetai Dauletkulov reports the same.

If there are several equally close relatives, for example, uncles, the only daughter of the deceased can choose between them. Whoever is chosen by her as a guardain receives only her kalym, if this was not received by the father, but the guardian does not receive

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the inheritance. This is divided equally among the other kinsmen. If she has a brother but he is still under age, then an older relative helps him with advice in sending off his sister to her husband. If there is no relative in the male line, she is sent off by a relative on the female line: the father of her mother (nagashi), the mother of her mother (nagashe sheshe), the sister of the father (apa). The sending off of the bride is preferably entrusted to an elder, for example, the grandfather (baba), so that there will be no suspicion of cupidity. In general, whoever takes it upon himself to send away (uzatamyn dise) the only daughter receives her inheritance for himself. But if he is an outsider, he is obliged to keep the property intact for two or three years in case of the appearance of a kinsman (Torgai).

If a widow remarries, she receives nothing from the inheritance, except in the case where she takes her son with her, for the inheritance belongs to him. If she does not /53/ marry and wishes to live with her father, she receives only a tent and one-eighth of the inheritance. Often the relatives do not let the young son go to the new husband of the widow. A grown son is free to choose between his relatives and the new dwelling place of his mother.

A son born of a widow from a lover, without marriage, does not receive the inheritance after the death of the father. If a girl is never married but has children, she is considered the lawful wife of her lover, without receiving a kalym, and her children are not deprived of the inheritance (Perovsk uyezd).

Among the Kirgiz, property does not go away with the widow but remains with the closest relative.

According to Torgai, a widow can go away with the inheritance to the man she loves if none of the relatives remains alive. Such a widow, even though she may be old and ugly, will be married because of the wealth, though not without risk, for an heir may appear and demand his inheritance. Then her husband refuses to deliver it, under the pretext of expenses for the funeral and the support of his wife (khatyndy baktym kaktym), and the question remains debatable.

Among the Kirgiz, the widow, if the children want to divide the inheritance, remains with the youngest son. Here, excluding expenses for the funeral, as many shares are divided as there are sons, with the addition of one share for the mother. For example, when there are two sons, she receives one-third. This is the most just solution, but demanding people succeed in getting more for themselves.

428 There are no statements about a vacant succession, since no one lives without relatives and friends, who appropriate this property for themselves. In case of some sort of epidemic such property would be stolen (Perovsk uyezd). (1)

[567] 1. Slaves could not possess property or receive an inheritance. A slave and his family who were received in an allotment did not inherit anything. An unalloted adopted slave or his children received a small share of the inheritance. A slave woman was taken by the successor. They might give her something in view of advanced age. If she had a son, /54/ he could receive a part, for example, one-third of the usual allotment or less, depending on the generosity of the deceased or the successor.

[595] Children of concubines who were not adopted did not receive inheritance. The adopted ones received half of what the other heirs received. Communicated by Sultan Daulet Bushaev.

/54/ In ancient times, wergeld which was sentenced to be paid by the deceased was demanded to be paid by his heirs from the inheritance. But if the defendant died before the matter was decided, so that he did not have the possibility of clearing himself, the demand for the wergeld was refused. Now the heir takes part in the payment of the wergeld just as much as all the members of the clan which is paying the wergeld(khundas).

/55/ CHAPTER V.

Conditions for entering into marriage. - Matchmaking. - Oruntoy. - Wedding. - Gifts of the groom to the women. - The procession of the wedding couple to the groom's father.

[583] 582 Entrance into marriage is dependant on the payment of a kalym /bride price/ but not on the majority of the groom and the bride. (1)

1. Among the Alai Kirgiz the betrothal is most often settled when the boy is a year old, and rarely at a mature age. Communication of Grombchevskii. Matchmaking can take place also before the birth of a child.

The rich usually marry their sons when they are 12 to 15 years old, the poor much later, for example at 30 (Perovsk uyezd). In the

Kazalinsk uyezd the boys marry from 9 to 12 years of age. The early 582
marriage of the daughters is dependent on the poverty of the parents, for whom it is difficult to support them. In the Chimkent uyezd the bride is usually sent away at the age of 20 to 25.

After the full payment of the kalym the marriage cannot fail 586
to be consummated. But unchastity or other faults (aib) of the bride 836
which have taken place without it being the fault of the groom, and also the incapacity of the groom for marital cohabitation can be reasons for not consummating the marriage even after the payment of the bride price.

A good groom keeps silent about the shortcoming of his bride which he knows about, especially since now a bride who is faultless is rarely found (Perovsk uyezd). If he makes a complaint but does not renounce the marriage he can be returned half the kalym. If he completely renounces the bride, they offer him the choice of another daughter or the whole (tegiz) kalym which has been paid. If the groom refuses the marriage without guilt on the part of the bride, he cannot demand the return of the paid kalym. Sometimes it happens that they do return part of the kalym to him. (2) From the Chimkent uyezd it is reported that in /56/ the case of such a refusal, if the groom had been living with his bride, he pays a fine of eight horses and one camel.

If the bride complains to her mother of the groom's having relations with her before the wedding, then his clothes are torn and the belly of his horse is ripped open.

If a girl who is not betrothed has a child, she is considered the 588
wife of the child's father, without having received a kalym. Her father or kinsman may sometimes demand a full kalym for her, depending on the beauty and youth of the bride and the wealth of her parents.

After the death of the groom, the bride is counted on for his 587
brother and /schitaetsia za ego bratom/ in general for his nearest kinsman, which proves that the bride was and is now considered the property of the clan

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2. If the bride declares her unwillingness before the Russian authorities, to marry the groom chosen by her father, then if she is still in her father's house, this is equivalent to the annulment of the ritual of marriage, and she is permitted to marry according to her own choice, with the return of the part of the kalym received from the former groom.

587 In the folk poem Dzhibekkyz, the hero Tulegen, of the Dzhagalbayly clan is killed. His brother, when he comes of age, goes to seek the hand of Dzhibekkiz, the bride of the deceased. He says, among other things: "If she does not wish to marry me, I will return with my tail between my legs" (kutimni kysyo). From the time of the death of her first husband Dzhibekkyz has been waiting for the arrival of his closest kinsman or other relative. She says: "I was betrothed (bas kaskanym) from the beginning to the Dzhagalbaily clan, which is so rich that it is unable to look after its herds. If it is true that Tulegen has been killed, then O God, why do they not take Dzhibek? Surely there is one young fellow in his clan who would ask for and receive his bride (yesir)!"

If the bride dies, her father or kinsman gives the groom her unbetrothed sister or close kinswoman for a small addition to the kalym (called baldyzkalyn) of one or two camels. When there is no other girl, the kalym is returned in full if the bride died in the house of her father, i. e., before the wedding. If after the death of a bride, her sisters are still too young, their father invites the son-in-law to visit him, gives him a horse or a camel and begs him to wait until the girl is more mature. If the groom /57/ refuses to wait for her to come of age, two parts of the kalym which has been paid is returned to him, and one part remains for the bride's father. A bride can marry the younger brother of the groom, with the agreement of the groom's side. In this case, even though the visit to the bride has taken place, yasyrin kelyu, nothing is added to the previous kalym. If the oruntoy /cf. below/ has taken place, then a baldyzkalyn is paid for the sister in addition to the kalym, a sum equal to half the given kalym. In extremity, if no bride is available, the kalym is returned minus 1 kulundi biya, or according to other data, half the kalym if the groom had been going to the bride, or the entire kalym if he had not been going.

After the death of a bride, the groom is obliged to visit the village of her parents, otherwise he loses the right to her sister. In this case, for his new betrothal he is required to pay a toguz in addition (the books of the biis).

If a father who had received a kalym from one groom married the bride to another, in former times the first groom tried to kill the father or his rival, demanding to be given the bride, calling her tangbaly tayimning kuzi (the eye of the marked colt), and not agreeing to the return of the kalym or else demanding to be given her sister and one slave to be sent with her, to wipe away the dishonor.

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the dishonor.

When the payment of the kalym is finished, the groom begins to go to the bride at her father's house, and she realizes that he is incapable of marital relations, she refuses to marry him as a result. Then respected persons give the groom over to be examined, and if in the course of a year this is not rectified, the bride is given the right to marry another, and the kalym paid by the groom is returned to him.

If a father betrothes his daughter in her childhood and receives the kalym for her, and upon reaching maturity she does not wish to marry her fiance, and her father does not wish it either, she still cannot go away from him unless the groom says that he does not want her for himself. /58/ In such a case the girl's father pays the kalym received from him and in addition a fine of twenty-seven animals, beginning with a camel and ending with sheep and goats.

If a girl who was betrothed in her infancy runs away with some young man after reaching maturity, then the latter must give her former groom a girl or else pay the bride price.

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In general, according to customary law, the saying of a prayer and the reception of the kalym are equivalent to a wedding.

In consequence of disagreement (oraz), the groom either becomes engaged to another girl or goes away for a long period of time. In the first case the previous bride is offended. The groom explains to her he will marry her after the other girl, but she does not wish to be the servant of others and returns the kalym minus 1 or 2 animals (kara). In the second case the girl's father loses patience and betrothes the girl to another. Then the groom appears and demands "either the kalym or the wife." The girl's father must give up the kalym with a fine of atton /a horse and a coat/.

The determination of the fine for breaking off the betrothal by one of the sides is completely dependant on the biis. If the refusal was caused, for example, by non-payment of the kalym, the fine is usually smaller. In general, if someone quits in the course of the payment of the kalym in installments, he pays a biilyk, and the sum which has been paid is returned minus one horse and one camel.

The choosing of the bride depends on the groom's father, who sends a stranger (khalis adam) in the capacity of a yauchi, so as not to expose himself to accidents which might spoil the whole affair. The yauchi begins the conversation, saying: "You have a falcon, we have a gerfalcon" (sizde iashin bar iken bizde sunkar bar iken).

They bargain over the amount of the kalym. The yauchi presents a gift kargibau, and receives as a gift a horse or a coat, which is called chege chapan (nail-coat), because he has validated the betrothal. The father of the bride sets the day, through this yauchi, for the coming of the groom's father with the formal proposal, for regalement and for delivering gifts to him (kiit kiib, sois yeb, kuda tusib ketsin). According to Makovetskii, "the formal proposal is frequently separated from /59/ the first agreement by many years, for example, if the groom and bride are in the cradle at the time of the agreement." Then the father or a kinsman of the groom becomes the matchmaker (kuda) who appears in the house of the bride, usually accompanied by relatives, for the formal proposal, the agreement about the kalym and the acceptance of the gifts kiit. According to Makovetskii, the more important the people making the match, the larger the number of matchmakers, sometimes more than twenty. As they approach the village of the bride's father, the matchmakers stop with his kinsmen and send an announcement of their coming from there. The bride's father notifies his relatives and friends of the presence of the matchmakers and orders the setting out of tents for the guests. When they appear, the matchmakers make the proposal in the presence of guests, which is accepted and validated by the slaughter of a white sheep and the reading of a blessing /baty/. The most valuable of the gifts is given to the father of the groom. This is required even when the groom's father is not among the matchmakers. In this case the gift is sent to him at home. According to the report of bii Khamahammed, the color of the sheep is indifferent; it can also be a kid and poor people can buy meat at the bazaar. He also says that the best gift is presented to the groom's father or to the person who is taking his place.

For the consecration of the contract which has been concluded, those present are regaled with fat-tail sheep fat (kuyruk) and liver (baur) which is cut into long strips. The platter with the kuyrukbaur is offered first to the groom's relatives and then to the bride's relatives. After this ritual the groom already speaks of his bride as "my lawful wife" (nikakhli khatynym). The feast, called kuda tusertoy, sometimes continues for several days. They arrange a baiga /horse race/, a fight, and the singing of choruses and soloists (zhirchi), who sing folk epics or compete in improvisations, [584] playing on the balalaika (dombra), violin (kobyz) and flute (sybyzga).

All during the merry-making the matchmakers play the most mournful role. The young women and girls make fun of them in all possible ways. They strip them naked and drag them through the village with a rope around the neck, as the laughing-stock of the people. /60/ They are sewn into felt during the eating. They do such unpleasant things with them, that it is impossible to tell of them here. They drag them by the legs through the changarak /the hoop at the top of the tent/, etc. There have been cases where the women have caused the death of matchmakers from playing with them. In such a case their husbands and kinsmen are held responsible for the wergeld nevertheless.

After this the father or a kinsman of the bride, but with a smaller number of people than the matchmakers on the groom's side, visit the father of the groom and receive kiit gifts from him. According to bii Sultan, the kiit, which is determined by stipulation (kesimdi) is for the use of the bride's father. What the other matchmakers receive depends on the free will of the groom's father, without being fixed (kesimsiz). Regalement with kuyrukbaur is not obligatory. If the entire kalym is not paid on this visit, then the first installment is, in the presence of the guests. Further installments can be presented without witnesses. If the bride's father denies having received them, an oath is required of him alone. Relatives and acquaintances (tamyr, yekchet) contribute to the kalym (kalynga kosady) often of their free will. There is no custom for the matchmakers to give more than the value of the gift received by them from the bride's father (this contradicts Makovetskii, Pt. I, p. 16).

Among the Kirgiz a rich father of the groom slaughters 4-5 sheep, a poor one 2 or 3. They are cooked at night. On the following day this meat, which is called "toy" is packed on a good animal, on whose head they tie a piece of cotton, called aktyk, for a sign (irym), and it is led to the bride's father. The animal is presented to him with the words: "for the transport of your treasure, " if it is a camel, or "for you to eat", if it is a horse. He is also given a sarypay. (1) The

1. Coat.

groom remains home. At the matchmaking they arrange baiga or kukbure /game played on horseback with kid. Cf. chapter XII/, the playing on the balalaika (2) and the zurna /type of oboe/.

2. The Kirgiz balalaika has 3 strings, while the Kazakh one has only 2.

4:Grodekov--55 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

584 The matchmaking can be from both sides (karsyma karsy kuda bulmyk, atastyrmak), in which case neither side pays a kalym.

/61/ The brothers of the father refuse to support their nephews in paying the kalyms of the latter (kalynmalga kosady). For the son of a poor but respected man the group of fifty or the village arranges a collection for the kalym (yurttyk kylyb yardam tigizedi). Here everyone gives as much as he wishes.

583 The choice of the groom by the bride does happen, but without the payment of a kalym (Perovsk uyezd). Earlier this did not happen, according to the report of bii Umurbek of the Auliye-Ata uyezd. Now there are cases where the girl flees to the choice of her heart against the will of the father (erksiz). After this her chosen husband can be compelled to pay the kalym and a fine.

The man guilty of carrying away the bride appears before her father with gifts (tartu tartib), asking forgiveness by saying: "Forgive me. I too am your son" (menen utingiz, mende balangiz). These gifts do not oblige the girl's father to refuse the kalym. According to Absalyamov of the Chimkent uyezd, the groom must pay a double kalym as a punishment.

584 The story of Karabai and Sarybai, who entered into matchmaking before the birth of their children, is confirmation of the sacredness of the betrothal. Sarybai died. Karabai did not wish to marry his [illegible] daughter Bayan-Sulu to an orphan, and he travelled away with his herds and married her to Kodarkul. The son of Sarybai, Kazykurpish, came to Bayan-Sulu, and hid with her in a trunk, but his long hair(1) which hung outside betrayed him. Karabai's family spared his life, but Kodarkul killed him. Later on he himself was killed by the hand of Bayan-Sulu.

The Kirgiz do not determine the amount of the kalym at the betrothal. At the beginning they give 2-3 animals, and thereafter 1-2 animals annually. Only on the "ui dzhany kylgan" visit does the girl's father ask the groom for the first time: "How much more will you pay? You specify it. What went before does not count" (burungy mal isebsiz, inde kančha beresin? uzing bil'). Then the amount of the bride price is determined. If it is difficult to pay the designated sum after this, the parents of the groom, with /62/ other relatives, take a slaughtered animal to the tent of the girl's father. On the question of those who encounter them: "Where are you going?"

1. Long hair for men is referred to in magic tales.

(yol bulsun), they reply: "We are going to our in-law /knashemu svatu/ to beat the forehead" (kudamyzga kulduk urgaly barayatyrmiz). The future wife's father forgives about one-third of the kalym for the sake of the groom's father. After this the wife of the suppliant says: "I am your matchmaker, and I too came to beat my forehead" (men de kudagaying men de kulduk urgali kel'dim), and for her sake he forgives about one-sixth of the kalym. Finally, for the sake of the rest of the family, he gives up still another small amount. The remainder must be paid without fail. The bride's father can fail to agree to the reduction and demand the payment in full (Torgai).

According to Kurpetai Dauletkulov, the Kirgiz pay at the beginning without keeping accounts. Later when the bride is 13-16 years old, the groom's father says: "My property is being exhausted, and if not my property, then at least my days are being exhausted. Give the girl. My son and your daughter are both grown" (malym yitti, malym yitmese, kunim yitti, kyzny ber, balamda chungaydy, sening kyzyng da chungaydy). The Kirgiz Daniyar says that after a year after the matchmaking an "opening of the doors" is arranged corresponding to the Kazakh oruntoy, and ishikachty (1), with baiga, kukbure, playing on the balalaika and the zurna. The women receive yirtich and the bride's father receives an animal. If he is satisfied with it he says: "I have opened the door" and makes a presentation of a coat. The groom asks: "How many more animals am I to give you? When will you give the bride?" The rich man overcharges more than the poor. By promising to keep it a secret, the groom can spend the night with the bride and have a foretaste of marital delights.

The groom cannot go to the family of the bride or into her village. If they see him there he is reprimanded, and in the Auliye-Ata uyezd his horse is taken from him and he is obliged to walk home in shame. In case of necessity he waits outside the village (aulnyng sirtinda). The women bring him food, for he /63/ can neither enter the house of the bride's father (ata) nor the house of the latter's family, including his elder brother (ulkun ata), the son of this brother (kainaga),

1. Concerning the word imchekkuru the informant says that inspection of the breasts takes place among the young people of the village, but secretly of course, and if someone sees it, then the outcome is nasty (yaman bulady). Judging by this, imchekkuru in Vambery's book, in the chapter on the Kirgiz, appeared by mistake in place of ishikachty.

and in general the older relatives of the bride's father (ul'kun ui). If the bride's father has not received his allotment and lives or lived in their home, then this also includes the younger relatives of the bride's father. The groom can enter the tent of the younger brother of the bride's father, and his younger relatives, but cannot sit in the place of honor, tur. An exception is made if the groom was already a friend /tamyr/ before the betrothal with someone from that family. Then he continues to enter the house of his tamyr without constraint, "because he is already not ashamed to do so."

The bride does not visit the village of the groom. Otherwise she could no longer return home. She also does not enter the village of the older or younger kin of her future father-in-law. If necessary she goes to a younger relative, if the father-in-law does not or did not live in his tent as not having received his allotment. Even this she can only do with a ransom (elyu) consisting of a scarf (oramal, bogdzhama), a headdress (yaulyk), a ring (sakyna), etc. with the goal of a good omen (irym kylyb).

The fiancee is called kalyndyk among the Kazakhs and koruktyk among the Kirgiz. Her being visited by the groom (kuyau) before the wedding, secretly (yasyryn), is called orunbargan or oruntoy by the Kazakhs, and ui dzhany kylgan by the Kirgiz. The girl's father, to whom the groom does not show himself, ignores his visit, and if strangers take it into their heads to scold him, he tells them he does not mix into other people's affairs. "Perhaps the groom is dead," says the girl's father, "so that he cannot come, although he gave the animal for slaughter." (ul'teruni bergen sung, ulub yatyr kuyau sha bara vermai).

The groom brings a goat (serke) to the oruntoy to be slaughtered (ul'tiru) at the bride's older brother's, at whose tent the oruntoy takes place, and whose wife (yenge) serves as intermediary, bringing the bride for one or two nights. The groom lies with the bride, but is not supposed to perform complete intercourse.

When the food is cooked they throw a piece of fat into the fire, saying: /64/ "may it go for the spirit of so-and-so" (balenning arvakhina tiisin) and give the names of dead relatives.

The purpose of the oruntoy, this ancient custom of all the Kazakhs, is the encouragement of the groom and the advisement to finish paying the kalym. There are cases in which the daughter is given away at the oruntoy, trusting the promise of the groom to finish paying the kalym, and evading the arrangement of a solemn wedding (Torgai). In the Perovsk uyezd it was reported that the daughter is not given away to the groom until the full payment of the kalym, guarding against the groom's failure to fulfill his promise [585] concerning the remaining payment of the kalym. It is now becoming customary (Auliye-Ata uyezd) that after finishing the payment of the kalym the groom comes to receive the bride at night, and goes away secretly without celebrating a wedding. In the Kurama uyezd the poor do this, regaling those who are invited with only one kettle of groats (butka). In this case it is self-evident that they dispense with toymal (1) /cf. table of kalyms, chapter VI/.[1]

According to bii Sultan and Makovetskii, when the groom departs for the oruntoy, he takes with him one fellow-traveller - kuyau yuldasy (Makovetskii has otagasy), - who accompanies him the entire time of the oruntoy, and also 5-10 riders, to transport the elyu, bosaga elyu, uigekerer and dzhirtys. The riders return at once when they have delivered the property and received kiit for it. The groom remains with the travelling companion in the tent of the father or uncle of the bride, and among the rich in a tent specially prepared for him. Sometimes a special tent is prepared for the companion. Then the matchmakers who encounter the groom on horseback or on foot ask for a gift for their "weariness" (intik ber) from preparing the tent. For leading the groom into the tent they ask for a gift again (chatyrbay-gazysy). Then the manager of the gifts (kade), the groom's travelling companion, distributes them, depending on the degree of kinship. The first and best gift is presented to the mother of the bride. After her is the bride's grandmother, etc. The uigekerer, for the entrance into the tent, consists /65/ of a camel or a horse. The uidzhirtys is entrusted in entirety to the mother of the bride for distribution "in the house." The auldzhirtys is given to the most respected woman "from the village," for distribution to the others. When the women announce that the gifts are inadequate, the groom sends his companion back for new gifts. After this the celebration of the oruntoy begins, continuing for one day. The bride is hidden somewhere, and the mistress of the house where she is hidden receives a kyz kashar gift for giving her up, consisting of cloth

1. The Kazakh Khudaykul of the Kurama uyezd has paid the kalym and toymal short of one mare. The father of his bride is advising him, out of covetousness, to give him one horse and take the bride away secretly. But Khudaykul is demanding the arrangement of a wedding on the toymal received, promising to provide the remaining mare.

[1] [cf cat 116, pp 69-75 - A]

58 (adryasa, tent cloth or calico) for 2-3 dresses.

In the evening, when the bed for the groom has been prepared(1), two women call him, and for this they receive a gift called kuyauchakyrar. When he enters the tent, the bride's brother's wife sprinkles dried apricots, nuts and baursak (2) over him. This is called chachu. Then the bride is brought in. In former times, when the bride entered the tent she threw fat on the fire burning in the middle of it, with the words: "fire - mother, fat - mother, give me your blessing" (ot ana mai ana dzharylga). The bii says "This custom existed at the time of Chingiz Khan, when they did not know books. It is a wicked custom." This same night one woman, lying behind the back of the bride and holding her tightly in her embrace, receives a gift called arka yatar or kyz kushaktar for her departure.

On the departure of the groom, the bride's father gives him a gift called "at the bottom of the sack" consisting of one animal, and if the kalym has not yet been completely paid, he fogives one animal from it.

The visits of the groom continue until the wedding. The rich groom rides in each time with his comrades. The gifts brought with them are less valuable and are designated for the bride's brothers' wives (yengeler).

If the groom dies after having visited the bride in the oruntoy, her parents bring her in mourning with gifts called aza into the village of the deceased, and here she mourns the groom for a year /66/, and then marries his brother or close kinsman. In the Russian period, adds bii Khalmahammed, this custom is being lost. But in earlier times it happened that 20-30 young men from the groom's village departed for the bride's village, in order to bring her by force.

According to bii Khalmahammed, of the Chimkent uyezd, in agreement with Makovetskii, Pt. I, pp. 7, 8, they distinguish the orunkelyu or esikachti, i. e., the first visit of the bride after the finished payment of the kalym, which is accompanied by a regalement of baursak with gifts called dzhirtich from the side of

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1. The bed is prepared by women who receive a gift called tyusek salar for this.

2. Small pieces of dough, baked in sheep's fat.

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the groom, and also songs and kikbure races, arranged by the bride's father, from the yasyryn kelyu, which is the visit preceding the full payment of the kalym.

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A wedding can be performed in all months except the months of Safarai and Urazai (month of fasting) of the lunar calendar.

As opposed to the oruntoy celebration, the wedding feast, after which the bride is allowed to leave, is called the feast of giving leave (uzatatugun toy). The poor do not arrange an oruntoy but have the feast of giving leave directly.

The groom rides to the celebration of the wedding, taking place in the village of the bride's father, on a decorated horse with a travelling companion (yuldas), who carries sutakky with him for the bride's mother, a changarak for the new tent, door jambs and half of the necessary pieces of felt, as well as other gifts. The new tent is not put up at once, and sometimes not for a month, because it is necessary to buy appurtenances for it. The rich bride dons a headdress (saukale, among the Kirgiz shaukale). The groom appears before the bride's father in a coat with long sleeves. As he bows low before the bride's father, the bride's mother, the bride's brother and the latter's wife (yenge), the sleeves touch the ground. As he straightens up he passes his hands over his knees.

The bride's father, having received 7 or 8 coats, called toy dzhirtys, and one mare, provides regalement (as). The elders (kar'-yaler) sit, are given food and drink and watch the young men (boz-balalar) race kukbure. The prize on this day is a slaughtered kid, called sagulak. In the evening the girls gather in a tent other than the tent of the bride's father. The door is closed but the felts are raised all around. Outside /Inserted page. Bride wearing headdress. Drawing by Akhmatov.*/ /67/ sit the young men. A singing (ulen) contest begins between the young men and the girls. The young men sing together by twos. In order to prevent arguments, the older ones ask all the young men to sing in turn (kezek). The girls give a ring (sakyna) to the good singers, bracelets (bilezuk) and money. The girls are given dried apricots, flat cakes, etc. The elders listen to the singing.

The first day of the wedding is called the day of "the closing of the tent", otau dzhabar, in distinction from the "great feast" (ul'-kun toy). For closing the tent the women receive gifts, otau dzhabar. For muyuntastar (1) they receive a sheep which they divide. →

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1. Muyuntastar is the throwing of a sheep's neck through the

*[Not reproduced --A]

tyundyuk /the felt covering the changarak at the top of the tent/, so that the new tent will not be smoky.

In the morning of the second day there is a kukbure race. (2)

2. In general the young men demand kukbure at every toy, before and after the baiga /horse race/. If they are refused, they threaten to tear down the tyundyuk from the tent, for the shame of the householder. (Bii Sultan Kanaev).

The kid with this is simply called ulak.

The festivity of this day (toy) goes in the same order as on the preceding day. But this time the women wish to amuse themselves and to take the bride away from the midst of her girl friends, where she is taking part in the singing. The girls defend their friend who is their same age, and the women take her away by force (tartady). This ritual is called taking away by force (tartis). Finally the women tie up the bride by force in a rug and carry her away, accompanied by the whimpering girls (singsiydy), who receive one or two pieces of cloth, called "for the taking", alym. The bride is thus carried into the tent of the bride's father, where a couch (tusek) has been prepared for the groom behind the bed curtains (shimildyk), with a white scarf (nikeyaulyk) (3) spread on it. The women demand

3. Cf. Supplement No. 4: yar-yar and audzhar.

that the groom lift the bride himself and carry her to the bed. The groom refuses to do this, saying that it is shameful for a man to lift a woman. Then one of the strong women lifts the bride for a gift called kyzkuterer. The girls go away, but the women remain in order to listen (tynglab turady) outside. Afterwards they take/68/ the blood-stained scarf (nikeyaulyk) to the parents of the bride, with the words: "Your daughter is chaste, God has been merciful, give syuyunchi" (kyzyng kyz iken, kuday yarlykab kaldy, syuyunchi ber). If the husband proves to be insolvent, he pays the aunts the value of one horse.

If the bride proves to be unchaste, the groom can have cause for complaint, saying that he paid the kalym for a maiden and not a woman (kyzga mal bergen men, khatynga mal bergenim yok). For this the bride's father is liable to a fine, which was formerly up to three toguz, and now up to an atton (a horse and a coat), but they do not pardon it regardless. (Torgai). 585

If the groom himself causes the bride to lose her innocence at the oruntoy, he informs the matchmakers who spread out the nikeyaulyk of this, and in such a case they demand gifts for themselves, resorting to a threat which is never carried out, namely, to rip open the belly of his horse. (Bii Sultan). 586

If the groom is impotent (yaramisa), they wait three days. After that if the bride does not like the groom, she can use this as a pretext to announce that she will not marry him (tiymeymen). Then her father returns the kalym to the amount determined by the biis.

On the following day, for the first time during the day, the bride's father and mother invite the groom to their tent. He does not sit in the tur /place of honor/ but remains in the corner between the first and second cross pieces (yabsar - corner, link). He is given the sheep's breast (tus) to eat. The guests appear with food and receive money from the groom in empty cups (tabak). (Torgai).

According to Irsbek, among the Tashkent Kazakhs no wedding can dispense with the religious ceremony /venchanie/ (nika), for which the groom provides the payment, nikakyyar, 40 kopeks to the imam and 2 rubles to the bii. According to Daulet Bushaev, they give the mullah, depending on their station, 1 sheep and 40 kopeks, or 4 rubles, 40 kopeks in money, or another gift. According to Mikebai, the bii does not take a gift, anyway as a guest. The mullah receives eki bauly chapan "a coat with two fastenings", i. e., one coat, or eki tisti tusak, "a female ewe with two teeth", or 4 rubles. /69/ The rich give more. Only half this sum is given for a widow.

In the Kazalinsk uyezd the wedding ritual /brakosochetanie/ takes place in the following manner. While the prayers are read water is poured into a cup. The girl being married throws either earrings or a silver ring into it, and covers the vessel with a white kerchief. The groom fastens a stick in the form of an arrow to the edge of the cup with the white kerchief. After the prayers the bride takes back the object thrown into the cup, and thereafter preserves it as a pledge of happiness. One of the witnesses of the wedding (1) takes the cup and holds it in his hands in such a way that the fingers on the brim do not join on top. In this space husband and wife put their lips in turn (the husband first) and drink the water. Then the cup is passed

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1. There must be one from each side.

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into the hands of all those present, who drink from it without touching their lips to that place where the wedding couple drank. The white kerchiefs go to the witnesses. (2)

2. Communication from E. A. Aleksandrov.

According to Makovetskii, Pt. I, p. 11, the wedding ritual is performed only after the actual departure of the wedding couple, according to bii Sultan, it occurs before the ritual otausalar. It consists of the reading of the blessing "amin allaakbar" by the mullah. The bride, her girl companions and other women are behind a curtain, while the groom and two witnesses or warrentors (gua, vakil) sit in the middle of the tent, one witness on each side of him, with the family and other guests, without a curtain (in contradiction to Makovetskii). The witnesses, or according to Makovetskii the mullah, asks the groom if he is agreed to take in marriage (zhupti klyb aluga) such and such (giving her name) a daughter of so and so (the name of the father) and so and so (the name of the mother). The groom answers that he is agreed (kabyl kyldym, kabyl tuttim). Then they turn to the bride with the same question and receive a similar answer. After this /70/ the mullah reads the prayer called khutba. A cup (ayak) is brought in containing pure water in which they leave money, rings or something similar for the witnesses. The mullah consecrates it by blowing on it (dem salady), and then the witnesses carry it to the groom, the bride and the guests, each of whom takes a sip. At this time the groom and bride must touch the cup in the same place, which designates their unity symbolically. The mullah is usually given not less than 40 kopeks, but this payment (nikakyyar) is not obligatory. The village bii, who is informed of the wedding, also asks for nikakyyar and also receives something.

After the end of the ritual, the relatives turn to the newlyweds with instructions for a peaceful life. They say to the groom: "We have put the bone (i. e., your kinswoman) into your hands, treat her well, do not torment her nor beat her, and do not scold without fault" (kulyngyza br suyak berdik, muny yaksylab kutib bagyngyz azar berib urma, bi vadzh yaman syuilemengyz). They tell the bride: "Live in such a way that they will not curse me"(balam dzhaman bolma [illegible] atalga nalet keltererersen). Then the bride departs with the mother and the best man of the groom, while the groom remains to eat and to say farewell to the bride's father, and overtakes the procession (bii Sultan).

Now let us turn to a listing of the gifts which the groom is obliged to give the women:

1) Sutakky, to the bride's mother for nursing at the breast, is a camel or a horse, but no less than a good coat at 4 rubles. In the Perovsk uyezd the rich give 10 camels, and the poor a good animal at 40 rubles, or the same amount in money (Torgai).

2) Baldyz kurimdik - a keepsake for the bride's sister (baldyz). This gift is presented at the time of orunbargan, and in any case before the wedding, or otherwise the baldyz will take offense.

3) Yengetai - to the wife of the bride's brother, or the wife of that closest kinsman of the bride who follows after her father. The amount is similar to the preceding gifts.

4) Sauka lening baygazysy. The bride's headdress /71/ is put on by some woman who appears before the groom to receive a gift, a coat or a shirt, for giving up the headress to the bride.

5) Otau dzhabar - For the uncovered tent given by the bride's father the groom provides felts, and for covering the tent with felts he gives the women one animal.

6) Endikimdik - For the weariness of the women who ran and got out of breath (endikib kelgen) when the groom arrived, a gift of 20 or 40 kopeks.

7) Atbaylar - for tying up the horse - is a gift of 9 pieces of clothing (toguzkiim) or 3 pieces of matting. The women divide this among themselves.

8) Tyusek salar - for laying the bed for the oruntoy.

9) Shimildyk baylar - for tying back the bed curtains.

10) Kolustartar - for delivering the bride into the hands of the groom at the oruntoy.

11) Shashsipatar - for the right to smooth the hair of the bride.

12) Kurpa kamyltartar - for moving the bedcovers.

13) Ityrilder - for chasing off the dog that snarled at the groom. (1)

14) Bakansaldymdik - for opening the tyundyuk /the felt over the top part of the tent/.

15) Muyuntastar - for the throwing of the sheep's neck through the tyundyuk by the women.

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1. A woman who sits at the threshold of the tent portrays the dog.

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16) Arka yatar (not among all the Kazakhs) - for the departure of the woman lying behind the back of the bride.

17) Kyzkuterer - for lifting the bride on a rug.

18) Kempir ul'di - so that the old woman who has been hindering the union will pretend to be dead.

19) Kuyau attandyrar - for seating the groom on his horse.

/72/ 20) Kyz kashar - For bringing the bride in, after her flight to her kinsmen.

Each of the last gifts is worth 20 to 40 kopeks, while according to Irsbai (Tashkent Kazakh), a small piece of cloth is given, similar to a kerchief.

When the groom refuses to pay after his money is exhausted, the women say: "even if the horse should die of hunger, the customary gift ought not to perish" (at ulse de kada ulmeydi), for according to the proverb; the bride can be without a kalym but not without gifts (kalyngsiz kyz bulady, kadesiz bulmaydy).

If the groom gives nothing, the women tear the clothing of his companion. The young men of the bride's village, who threaten to kill the groom, receive a gift called mushe (1) from him, consisting of kerchiefs. The aksakal receives a coat at this time (Perovsk uyezd).

Among the Kirgiz, the relatives of the groom themselves drive animals to the home of the bride's father for the regalement of the guests, and arrange the entire feast. The women receive kishmish /raisins or seedless grapes/, pistachio nuts, and baursak from the groom. and the buyrek /kidney/, shiirak and muche (yota yilik) from the slaughtered animal. The groom who does not give them this is called bad, and they shame him, but do not beat him. They entertain themselves with kukbure and baiga, and with the balalaika and zurna /stringed instrument and type of oboe/. The bride's father gives a sarypay for the zurna player /zurnaichi/of the groom and the groom's father. On the first day of the wedding the kukbure is not

1. In Budagov's dictionary, it says under the word mushe that mushe basy "the chief gift", a silk coat or a horse, is presented to the eldest by birth, and he gives it to the sultan or to another Kazakh, older than himself. The remaining mushe are presented in succession to the younger clans. The last one - a scrap of silk material or calico - is grabbed by someone who races away. He is followed and the one who catches him receives it, so that it finally remains with the man who has the swiftest horse.

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called sagulak, as it is among the Kazakhs, but simply ulak. On the second day they slaughter an animal, called toy, they race the kubure, and in the evening they drink in the tent. The girls give the singers rings and kerchiefs. Then they go into the steppe for "the maiden's dance" (kyz uin), in the moonlight. Young married women seat /73/ the girls and young men back to back, and then force them to stand, permitting the young men to take the girls by the breast and kiss them. On the second day they eat the toy. In the evening the bride is placed with the groom in their tent (kyzdy otaulatty). The good groom keeps quiet about the unchastity of the bride. It is not customary for the women to show the bloodstained kerchief. Such is the communication of bii Daniyar, of the Auliye-Ata uyezd. (1)

> 1. The custom of looking for the blood on this night exists among the Alai Kirgiz, according to the communication of B. L. Grombchevskii. But the discovery of unchastity among the poorest class does not lead to complications. If the groom is richer and more prominent than the bride, the relatives of the groom rustle one or several horses from the bride's father and slaughter them as punishment for the father who did not preserve his daughter. This, of course, happens only if the one guilty for the loss of virginity is not the groom himself.

Before her departure from her father's village for the village of the groom, the bride goes around to all her acquaintances to say farewell (tanysady). Each one gives her something, of the sort of a ring or an animal. She does not give gifts in return. When the visiting is finished, the bride prepares for the journey on one of the propitious days, kunning saati. Monday, Wednesday and Friday are considered to be such days. Before the departure of his daughter, the father asks her: "What do you want for yourself from my house?" and gives her what she wants, according to her indication. If he refuses, the daughter is angry (azar bulady), and after she is in the house of the groom's father, she sends her husband to drive off livestock from her father (Torgai).

The rich Kazakhs arrange a baiga or kukbure on the accompanying of the daughter (kyz uzatpak).

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The new bride rides on a decorated animal, in festival attire, wearing the saukale /bridal headdress/ or the usual headdress of women (2), and covers her face with a long veil. The saukale is a

291 2. The headdress of women is white. It consists of a dzhauluk /woman's headdress of white calico/ twisted in the manner of a turban, and under this, completely covering the neck is a hood called kimechek, or instead of this a piece of cloth (ekche) tied around the face. Bii Sultan disapproves the wearing of the ekche in place of the kimechek. The long veil (dzhelek) is made of a piece of silk sufficient for two chemises.

586 high cone-shaped cap of felt, with red and black cloth stuck to it inside and out, and richly decorated with fur, gold, silver, corals,
292 pearls and stones. Several owl feathers are attached to the top of it, for /74/ protection against the evil eye, and at the bottom are several strings of corals and pearls, falling below the knee. The saukale is returned to the clan of the wife if she dies childless. The saukale is already going out of use. In its place they wear a simpler headdress called kasabe. The kasabe consists of a cone-shaped piece of felt on which white cloth is wound. The top of the cone, which is turned forward, is decorated with many-colored fringe of Kazakh make.

585 The wedding couple is accompanied by one man and the mother of the bride. If she is dead, the wife of the older brother (yenge) takes her place, and if there is none, then the elder brother goes himself.

As he approaches his own village, the groom rides ahead of the procession, in order to announce the coming of the bride (kelin or kelinchek). The groom's father arranges a kukbure race. The girls of the village go out 3 - 4 versts to meet the procession (aldynan shigady), to honor the bride (kelinning kuanysy). The girls take her off her horse and lead her on foot. They beg various trinkets from her, such as rings, bracelets, corals (mardzhan), necklaces (munchak) and coins which are specially strung for this.

The gift from the bride's mother for the kinswomen of the groom is called murundyk, i. e., for the bridle of the camel.

The bride is conducted into the tent of the groom's father, but they do not show her to him nor to the groom's mother (ene), but put her behind the bed curtians. This night and the following ones, up to three nights, she spends under the curtains with the girls, without her husband. They busy themselves with fortune-telling. On the morning of the fourth day, the ceremony is arranged for the uncovering of the face (betachar toy). If there is a singer (zhirchi), he puts a piece of matting called aktyk on the end of a stick and lifts the curtain for the bride, with verses in which he names all the relatives present, in order, obliging the bride to bow to each person. (1)

1. Cf. Supplement No. 5.

The groom's father regales the guests and distributes to them 585 something from the dowry, tyubetyeikas /skull caps/, etc., and arranges kukbure racing. After /75/ the departure of the guests, the girls of the village bring food and again each one begs something, a chest, a cushion, an amulet (tmar). This ritual is called congratulation (kuttuk), and people ride in to it from far away. Animals are given to those from a long distance. In the evening the bride melts fat-tail fat and smears her face with it, and brings the grooms father and mother respect (tazim) and a bow (salem).(1).

1. Communicated by Torgai.

In the Turkestan uyezd it is denied that the bride smears her face. There she only throws fat into the fire, in remembrance of the dead.

When the bride throws fat into the fire, the elders say: be of one accord, like fat (maydoy opatu bul). (Tashkent uyezd).

As long as the groom's father is alive, his daughter-in-law 585 cannot be in or enter the honored corner (tur). Otherwise her legs 576 will hurt. After the death of the groom's father, the daughter-in-law throws fat in the fire, and then she can be in the tur. (Tashkent uyezd).

The young groom does not avoid the wife's relatives, but visits them without restraint, for all the relatives of the bride, even those the same age, became acquainted with him at the wedding.

For one year the young bride does not go to her relatives "from shame" (uyalib), since now she is wearing not the girl's kerchief but the headdress of married women (yaulyk). She receives news of the health of her relatives and bits of news from her husband. Only in the case of the death of one of her relatives does she go to them to express her condolences (aza tutib).

A good bride both from shame and from respect (uyaladi, izzet klady) avoids the groom's father and all the kinsmen springing from him all her life, according to the proverb: the husband is not respected whose body is seen, the kinswoman is not respected whose face is seen (erding kadryn bil'meydi, etin kuredii, againdyng kadryn bil'meydi betin kuredi).

According to data reported from the Auliye-Ata uyezd, the young wife does not show herself to the older kinsmen of her husband in the third degree of kinship, all the way to the most remote clan affiliation.

000 affiliation.

585 /76/ Among the Kirgiz, the bride is seated behind the curtain at the groom's father's. The yenge says: "pay for a look" (kurumdigin ber). Those who like her give her something. The bride in the "large house" (chung uide), that is, in the house of the groom's father, greets the groom's father and mother and throws fat in the fire with the words: "May God have mercy on you. May the animal join you from behind. May children join you from in front. May the years of your life be long, both yours and the groom's". (1) In answer to this the groom's father

1. Ak yalgasyn! Artingdy mal bassyn, aldyngdy bala bassyn! Kuyauing ukeauing umri yashi bulsyn!

and mother pronounce a blessing (bata).

/77/ CHAPTER VI.

Kalym. - Number of wives. - The marriage of a widow. - Divorce. - Akymar. - The children of widows and divorced people. - The position of women. - The illegitimate children. - Birth and designation of names.

583 The payment for the bride or kalym (kalyn, kalyn mal) goes to the use of the person who reared her and married her, i. e., her father, kinsman, guardian, etc. The extent of the kalym differs greatly between rich and poor, and between beautiful and unattractive brides. (1) A larger kalym is demanded for a girl from widowers, than

1. They offered a deaf and dumb girl in Tashkent for 5 cows.

from men entering their first marriage. After the payment of the kalym, the groom still provides the toymal and the elyu before the day of the wedding. The bride's father adds the same amount himself to the toymal he receives, and from this he arranges the wedding feast and buys the wedding couple a tent, rugs, blankets, a fur coat, the bridal headdress, utensils, clothing and other parts of the dowry.

The elyu is an animal to carry the tent and the entire dowry.

The kalyms of the Perovsk uyezd, according to bii Mikebai Sultanaev, consist of the following divisions:

/78/ Names of divisions	Kalym of the rich "forty-seven"(1) (kyrk yete)	Kalym of prosperous, with the same name (ekinchi kyrk yete).	Kalym of poor "thirty-seven (otuz yete).
Karamal	60 saulyk 60 tokty } 500 rubles	40 saulyk 40 tokty	30 saulyk (pregnant ewe) 30 tokty (year old sheep).
Bash yakhaysy	60 tusak (barren ewe)	40 tusak	1 camel 1 horse
Yanama yakhsysy	1 camel 1 horse	1 camel	1 horse
Yeketu biye	1 mare in foal	1 mare in foal	1 kunan (three year old animal).
Tusat	1 horse	1 colt (tai)	1 tokty
Kalyntyuya	1 camel	1 camel	1 tailak (two year old [illegible] camel)
Sutakky (2)	1 camel	1 camel	1 horse, 1 coat.
/79/ Toymal Elyu	100 sheep 10 camels for a new tent 20-30 horses for the furnishings, etc.	In the same proportion but less	Very little, or not at all.

1. This means 47 three year old mares, cf. Makovetskii, Pt. I, p. 5. In the Semipalatinsk oblast kalyms of 47, 37, 27, and 17 are used. Although the Kazakhs in the Turkestan area also remember kyrk yete in the sense of 47, the grammar permits another translation: "forty sevens".

2. Sutakky have already been mentioned among the voluntary gifts of the groom to the women.

Not all these divisions exist now. If they do exist in some places, the bride's father gives them out, especially the bash yakhsysy, in the form of gifts after the matchmaking (kiit), together with other gifts, consisting of clothing and food.

The smallest of kalym in the Perovsk uyezd is dzhiirme dzhesti, i. e., 27 heads of animals.

The special form of kalym called "tomalak kalyn" is arrived at by mutual agreement, which determines the total sum of animals or money as though at a sale. (1) With this there is no toymal or elyu.

1. In the Perovsk uyezd, someone gave 1500 rubles in money.

In the Auliye-Ata uyezd there are the following kalyms:
1) According to Abdrakhman:

Names of divisions	Rich	Poor
Karamel	8 kukundi biye	8 kulundi biye (mare with colt)
	12 buidak (two year old sheep).	2 saiyak (gelding, barren mare).
Yeketu biye	2 horses	
Tusat	1 horse	nothing
Kshi at	1 horse	
/80/ Ul'kun yetim (1)	120 sheep	nothing

1. Ul'kun yetim "the great prisoner" means the captive or the child of a captive woman which was given in former times in payment of the kalym. They gave 5 camels in place of a captive.

Kshi yetim (2)	3 camels (of which one female pregnant or with baby camel).	nothing

2. Kshi yetim "small captive" was substituted for by 4 camels.

Toymal	Undefined (kesimsiz)	nothing
Elyu	"	"
Gifts (kiit) from bride's father	100 tillias /ca. 300 to 400 rubles/.	"

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4:Grodekov--72--E-5 (ca 1885) 1889 RQ2 Kazak RQ2

2) According to Kunakbai:

Names of divisions	Former kalym among the rich	Present kalym	Among the poorest
Karamel	8 kukundi biye 12 buidak	8 kulundi biye	atbastagan toguz.
Bas yakhsysy	5 camels	1 camel	"
Ayak yakhsysy	3 camels		"
Toymal	9 mares 50 tillias	Appoximately 20 tillias /ca. 60-80 rubles/	"
Elyu	As many camels as the bride's father has wives.		
/81/ Yirtich (adras, bikasam /striped silk/, chintz etc. given out as kerchiefs to women at wedding)	Approximately 20 tillias /60-80 rubles/	Approximately 10 tillias /30-40 rubles/	Atbastagan toguz.

3) According to a third report:

Names of divisions	Among the rich	Among the prosperous	Among the poor
Karamel	80 saulyk 40 buidak	8 mares with foals	30 saulyk 30 buidak
Yakhsysy or rekara (large animals)	12 camels and 4 horses	2 camels and 4 saiyak (horses of various ages)	2 camels and 1 horse (or less, depending on means).
Toymal	20 horses	3-4 horses	1 animal.

4:Grodekov--73 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

According to bii Khalmakhammed of the Chimkent uyezd, the kalym with the toymal etc., consists, as far as he knows of the following categories:

Kalym of the rich "47" (kyrk yete):	The "37"(otuz yete), which is usually with the agreement of the bride's father, when the kyrk yete has been agreed upon, but they cannot pay it:	Kalym of the poor:
Gifts of kiit, approximately 400 rubles.	Kiit approximately 2 tillias /6 to 8 rubles/	
8 kulundi biye (mares in foal); of these 4 can be replaced by 60 sheep.	8 kulunde biye.	7 kulundi biye(of which 3 can be replaced by 1 good horse or camel).
/82/ 12 buidak zhylky (not old enough to sire foals, i. e., 2-4 years old) Six of these can be replaced by 30 sheep. Among the remaining 6 horses there is usually: tusat, i. e., a good horse, which the receiver will point to himself (tus salady); kshi at, "small horse". i. e., 4 year old; dzhanamat, "other horse" a good horse; yeketubie - 1 mare, yeletube tyuya, "camel tied to rope with running noose", a camel of medium value; some do not give yeletube tyuya. Ui'kun yetim or "bas yetim" - 120 sheep.	6 buidak zhylky or 4 buidak zhylky, 1 yeletube tyuya, 1 yanam at.	2 buidak zhylky.

Kshi yetim - 5 camels Toymal (1) - ca. 400 rubies	Toymal ca. 20 tillias /ca. 60 to 80 rubles/	The groom gives the bride clothing and transports her to his dwelling.
Ui uirtis (cloth to be given away) Ca. 60 tillias (228 rubles) or less	Ui yirtis - 10 to 15 tillias /ca. 30-45 rubles/	
Eiyu - 1 camel or 1 horse apiece to each wife of the bride's father, and 1 camel to his father (not obligatory, this is within the kiim).	Elyu - as in the kytk yete column.	Elyu - a camel or horse if possible; otherwise they depart on foot or on a horse lent by acquaintances.
/83/ Bosaga elyu - "for the right to cross the threshold", 1 camel. For the arrangement of the feast - about 1 1/2 batmans /432 lbs. or more/ of dried apricots kishmish /seedless grapes or raisins/ on a camel, which is returned if the animal was not the elyu tyuya. To be slaughtered for the feast - 2 fattened mares. Prizes for kukubure and baigas.	Bosaga elyu - a foal etc. in a smaller amount.	

1. The toymal and the iu yirtis is returned by the bride's father in the form of the dowry.

The matchmakers do not make an agreement on the amount of the toymal. It depends on the degree of solvency of the groom at the time of the wedding. The groom gives tillias and receives from the bride's father horses, camels, rugs, blankets, fur coats, clothing of all sorts, a samovar, in a word, complete equipment, which is called yagal. Among these objects it is necessary to mention the dzhelek', a wrap of red material which the newly married woman wears for a full year, and the saukale.

Among the Kirgiz manaps, the kalym formerly consisted of 100 horses, but now is 30 to 40 animals (kara). Among the simple Kirgiz, a kalym for a beautiful bride consists of 15 to 17 animals (kara), and 9-10 animals among the poor. The toymal is usual only among the rich Kirgiz, and then only in a small amount, for among them it is not customary to give gifts of things (yasau). They give only a tent, a rug, and a coat in the dowry, and formerly they gave th the shaukale in addition. They seat the bride on a horse, and pack the entire dowry on one camel. Therefore there is also no elyu. (Communication of bii Kurpetai Dauletkulov).

/84/ According to the report of the manpa mullah Asan Dzhangeldin, the size of the kalym was formerly indefinite. Now the rich rarely pay up to 100 heads (kara) of various animals (andai diger). The usual kalym is not over 9 heads or 100 tillias /ca. 300 -400 rubles/. Among these 9 there are usually 1 camel, 4 horses and 4 cows, and among the poor 1 camel and 8 small animals (sheep and goats). The poorest give a tokaltoguz, in the sense of a toguz without a camel (1), namely: 1 horse, 1 bishti (2), 1 kunan, 1 tillia, taiturpak (sucking calf), 1 sheep and 1 goat. Among them no tents are given or draught animals. The wedding couple departs on foot.

In Tashkent the kalym given by the rich is 12 kara (3), while people of the middle class give 10 kara, and the pooe give 9 kara. With With this the toymal consists of 20, 15, and 10 tillias, or else only of 8, 7, and 6 tillias. At the wedding the bride's father gives 1 sogum (bull) for the regalement, and 2 kids for the kukbure. The elyu equals 5 tillias, 4 tillias or 1 horse and 3 tillias.

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1. Tokaltoguz also signifies a toguz of things, without animals.

2. This is the name for a horse 3-4 years old among the Kirgiz.

3. Kara is "black animal", i. e., one animal. In the Auliye-Ata uyezd it is equal to 3 ewes with 3 lambs.

4:Grodekov--76 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

For kidnapping the bride before the full payment of the 583 kalym, from 1 to 3 toguz are exacted in addition to the kalym.

The groom sends one or several animals every year on the account of the kalym, animals which have been raised at home or bought for money he has earned. The bride waits from 12 to 20 years for the full payment but no longer.

If after this the groom acknowledges that he is unable to pay it all, they either forgive the remaining amount and marry the daughter to him, or keep another daughter for him who is younger and can still wait, and marry the other one to another. In extreme cases they give the groom back what has been received from him.

According to the Shariat, it is impossible to have more 595 than four wives at the same time. The customary law does not limit the number of wives, for a wife is only a female, urgashi isebinde. /Inserted page. Picture. Caption: Old Kirgiz woman of the Perovsk uyezd./ /85/ The man who has more than four wives lives conjugally only with the four married latest in time. The others become sufi, abstinent, and do not have marital relations (yatpeydi).

According to customary law, the husband of four wives should spend the night with each one in order. She whose turn it is to spend the night with him cooks the food. When there is a disagreement among the wives, the bii divides the dwelling quarters, all the utensils and even the animals (making earmarks) according to the number of wives. If one of them dies without children, the things entrusted to her are divided among the remaining wives (Perovsk uyezd).

The younger wives (tokal, or, more politely, kshi khatyn) show special respect to the oldest wife (baybishe). Otherwise they are all alike. The children of all the wives now have equal rights. [567] The children of slave women were without rights.

According to Umurbek, the baybishe can give orders to the younger wives and their children, if the latter are not greatly loved by the husband. If the children of the tokal are cleverer than the children of the baybishe, then they give them orders.

The agreement of the wives already married is not demanded for marrying another. They weep and wail (yilab syktab yuredi). Their displeasure is expressed in the words: did I not bear you a child, etc. According to another report, they do ask the agreement of the wives.

The period of mourning of the widow (idda) lasts 40 days, 765 according to the opinion of some biis, and according to other reports, 4 587 months and 10 days (for the childless 3 months). A widow or divorcee

[Not reproduced-- A.]

765 should not marry before this period of time has elapsed. E. A. Alek-
587 sandrov reports that the widow should not marry for a year. But, now, under the influence of the Shariat, the period of widowhood lasts 100 days.

The widower does not wear mourning, and his entrance into marriage is not restricted by a definite period of time.

587 The widow who wishes to marry (yesir) after the period of mourning (idda), must marry without fail the blood brother or /86/ closest kinsman of her husband, excluding his father, without a kalym. At the wedding they slaughter only one sheep. If she wishes to
589 remain a widow (tulkhatun), no one forces her into a second marriage. The reason for not marrying, for which they praise her - is not wishing to part with her children, who must remain in the house of the deceased. Then she continues to be considered the acquisition of the deceased and receives clothing and support in his house from the succession, even though she is childless. In the Kazalinsk uyezd, a widow who refuses to marry the brother of her late husband, remains the mistress of the property of the deceased husband only if she had children by him, and absolutely destines herself to be a widow. She is considered to be guardian of the sons until their majority. After that,even, after their majority she has full power to manage their property.

587 After the death of a middle brother, his wife goes to the older' and not to the younger brother, although usually the widows, preferring the younger, declare that the purely parental relations of the former brother-in-law (kaynaga) to them cannot be changed into marital relations. If in this case the older brother gives way to the younger one, he can insist on being given an atton /a horse and a coat/.

If the widow wishes to marry the son of the older brother, the younger brother will not agree to this, saying: I am senior to him in rank (yulym ulkun). Then the people can say to the older brother: If you do not marry her, because your wife does not agree to it, then your younger brother marries her. But let him give you an atton for seniority (yulyngdy kylsun). If the wife of the younger brother, learning of this, also raises a howl (uibui saldy), then he can fail to give this atton, and not marry the widow, but say to the son of the older brother: I give up my seniority to you, my child, (yulumdy balam sagan berdim). For his yielding he receives an atton from the latter.

An outsider, who wishes to receive the agreement of the relatives of the deceased to marriage with the widow by stealth, begins to live maritally with her. Then the lawful husband does not wish to take her "because the hem of a stranger has touched her" (itegi tiibti), but /87/ he makes a complaint nevertheless andreceives satisfaction in the form of a horse or a camel(1), and the people sanction the arrangement which is made.

If the widow marries a stranger, with the agreement of the relatives of the deceased, her children, even those not yet born, remain in the house of the former husband (2) and the new husband pays the family of the deceased at least half a kalym, or else provides a girl.

If after the mourning period a kinsman of the groom does not appear to receive the yesir, the biis give the widow permission (achyk khat) to marry according to her choice. (3)

When the widow has already had a wedding (nika) with an outsider without the permission of the husband's relatives, then the marriage is considered valid and only the question of the amount of compensation to the husband's relatives remains open. The lawful bridegroom, even though he does not receive a full kalym, has never gone away empty-handed (kuru kalmaydy) thus far.

A bii does not believe an accuasation of marital infidelity without witnesses.

The lover, about whom there has been a complaint to the bii,

1. The new husband at first suggests little, for example, a horse. The lawful groom does not agree to this, threatening to kill. Then they propose more, a camel, etc., until the legal groom is satisfied (razy klady).

2. There are cases where all the children go with the mother.

3. The law of 1867, in case of an unsatisfactory decision of a people's court on marital matters, let them turn to the uyezd chief with a complaint. Usually the Russian administration has permitted the widows to marry according to their choice. This type of decision, going contrary to custom, has given birth to disputes between the choice of the heart and the lawful groom.

684 cannot get off with a declaration that the wife was yielded to him for money, etc., and he pays a fine. For abducting a wife without her consent the lover is beaten and required to pay from one to three toguz (tyuya bastagan toguz, at bastagan toguz, siir bastagan toguz). If the wife was abducted with her consent, they beat the lover and the wife, and in addition the lover pays from one to three toguz.

683 /88/ If a husband publicly raises a knife, ax or saber against
his wife, or wounds her with such weapons, an atton is awarded to
562 the wife's relatives who make a complaint. A third case of such a
[589] complaint causes a divorce.

For threatening to kill the wife, her relatives do not take her away with them, but only threaten the husband saying: "If you kill her, then you will get it soundly" (ultirseng tubinde kurersen).

If a wife thrashes her husband, the husband or the husband's brother strips her naked, ties her and whips her. If she complained to the bii, he would sentence her to the same.

For mutilation, breaking an arm, blinding the eyes, etc., a husband pays less than the usual fine for these injuries. In demanding a fine, the wife's relatives express themselves thus: "You have mutilated our sister, and lowered her value" (aibdi kyldyng, karyndasymyzdy kem kyldyng, bakhasyn kettirding). For giving the wife a light wound on the head, or for a scar (bas yarylsa, tamga tusse), etc. there is no complaint.

When they find out about the husband's beating his wife, her relatives (turkun) appear before him with the words: "Surely she has been convicted of stealing or infidelity? (koiynan urlyk shykty ma, koynynan uinas shykty ma?); If you are dissatisfied with her a second time, give her to us (ekinchi yaman kurseng bizge ber); If you are not pleased with her, we are pleased with her (sen yaman kurseng de, biz yaman kurmeymiz). If she has fallen into error prove it to us through witnesses and cut off her head, and we will cut off her legs" (aybi bulsa, guva menen muynyna koy, basyn kis, biz ayagyn kiseyik). The husband answers: "I can beat her as much as I like, and if I beat her to death, I will pay wergeld." The relatives do not take the wife away, but they advise her to run away to them, which she later does. Then the husband, repenting of his anger and shamed by the people (yurt), goes after her, and promises by oath (kasam beredi) not to beat her or scold her. Her relatives agree to this with the words: "To return the wife the first time is the custom of the people (yurttyng resmi). But if you beat her again,

we will not give her up to you. " The second time /89/ they really 683
do not give her up. The husband already does not go for her, but 562
sends a third person to settle the account, i. e., to receive 3-4 kara.

If the disharmony with the husband which took place is the fault of the wife (aib khatyndan bulsa), i. e., for infidelity, a bad 586 tongue, etc., then her relatives do not accept her, even though she runs away to them twenty times, and they say: we will not demand vengeance money for you. Then she goes to another more distant relative (baska turkun). Her lover appears there and says: "Your kinswoman has separated from her husband. I will take her and pay all the expenses. " The husband takes it to court. The wife does not wish to return to him on any account. Her lover pays 6-7 kara or 30 tillias for the benefit of the husband.

If a lawful wife starts a quarrel with her husband in order to leave him, without any cause from his side, customary law does not permit her to do so. If in spite of this there is no possibility of keeping her with him, the husband is required to give her a letter of divorce, and the wife or a man who wishes to marry her is obliged to return in full the kalym which was received for her.

For killing his wife, the husband pays her relatives (as for 682
mutilation) less than the usual female wergeld according to kinship 562
as it is said.

For barrenness (bedau, kysyr) a wife is not sent back to her 842 father, but they ask the mullah to read over her, or send her to spend the night at holy places and burn a candle there (mullaga okutady, auliya[illegible] tunetedi charag yagib). In the poem Shura Batyr is a description of the journey of Marykbai and his wife Gul'kanys, for this reason, to the tomb of a saint, who appears to them and promises a son and a daughter.

After repeating the words talak (divorce) or talak koydym (I 586 have given a divorce) three times, a divorce is validated according to the Shariat. In addition, a woman who goes away to her father's house, or to the person who married her off is usually considered divorced. She does not take property with her, but /90/ the husband gives her something, for example, one-eighth of his property, if she was not guilty in the divorce.

A divorced woman no longer walks covered with a veil, as she did formerly.

Former spouses can marry again, even up to three times. The 587 fourth time a woman can marry her former husband only if she was married to an outsider after the third marriage. In the Kazalinsk uyezd, 587 a divorced woman can marry her husband for the second time only if she has been married to another, received a divorce from him and has lived unmarried for 100 days. Here the influence of the Shariat is felt.

586 A marriage is dissolved after the husband has been absent without report for 7 years, if in this period he could not be found, and means for support of the wife were not brought from him. The wife in this case is acquired by the older brother without a kalym.

A marriage is dissolved in the case of incapacity of one of the spouses (szharamsiz, bili dzhok, erlikke dzharamaydy), even after long years of living together. If the husband denies his impotence, the wife orders him to establish the truth under the observation of the elder (the bii books of the Perovsk uyezd). According to the declaration of Aver'yanov, the former chief of the Namangan uyezd, a Kirgiz woman who was complaining of the impotence of her husband, was led into a special place, lay down there, in the presence of the biis, and invited her husband to prove his capacity for marital relations. The husband proved to be impotent. (1)

1. According to a report of I. I. Ibragimov, one Siberian bii ordered the married couple to be intimate, and appointed several persons from among his intimates to observe them from outside the tent. In addition he appointed one person apiece from the side of the plaintiff and the defendant. The observation led to nothing for the observers, like the couple themselves, contradicted each other, so the bii ordered them to be led into a special tent and to make the same experiment, but in hot water. The husband proved to be impotent.

The wife, when she declares that her husband is impotent to his relatives, asks permission to marry another. The husband's relatives, seeing no basis /91/ for refusing, oblige her only to choose the new husband from the same clan and lineage, so as not to cast a shadow on their lineage. The new husband in such a case does not pay the first one a full kalym but a "kin" one the amount of which is greater, the more distant the degree of kinship. (1)

1. Communication of Torgai.

If the wife does not wish to live with her husband because of his incapacity for marital life, but in the meantime it is shown that he is capable of this, she does not have the right to leave him. If by examination of the husband it is proven that he is incapable of marital relations, the wife, having received a letter of divorce from him, with the signature of solid persons, can marry whomever she wishes. In this case the previous husband of this woman must pay her new husband half a kalym. (2)

2. Communication of Sagyndykov.

The settlement which is reached when a wife leaves her husband is based, among the Kazakhs, on the amount of the kalym already received for her from the husband. Among the Kirgiz the settlement does not depend on the size of the kalym. Among them they simply decree from 2 to 3 toguz /nines of cattle/ for the use of the husband. The reason for this lies in the fact that the Kirgiz, from the time of ~~matchmaking~~, when the bride is 2-10 years old, until she is mature (17 years) pay without reckoning until the parents come to the bride's house with one animal (so as not to come with empty hands) and determine the amount of kalym remaining to be paid.

In imitation of the Shariat, the customary law allows akymar (property) to be alloted to the wife in case of a divorce (khatynyng inchisi). The akymar can consist of livestock, immovable property and money.

The groom determines the akymar of the bride before the people, but without a receipt. He does not distinguish it from his own property and does not put it into her hands. In the case of a divorce, the wife, her closest kinsman (iese) or her clan (dzhamaasy), demands /92/. in court and receives the promised akymar. After the death of the husband, if the widow has a dispute with his relatives, they do not give her the akymar. If, however, she takes leave of the relatives of the husband on good relations, the heir gives her something in place of the akymar. If the husband grows weary of the old wife, and marries a young one, he can apportion the earlier wife with the akymar, with the addition of an allotment for her child. He apportions her to his son, or brother, or around himself. He is free to send her to her own kinsmen /turkun/.

Among the Kirgiz there is no akymar, but for this purpose there is a "contribution to the wedding"(nikaga basken mal), collected

586 among the relatives. The groom's father is the first to give to the
contribution. This property remains with the husband in the case of
divorce.

According to Umurbek, the children of divorced parents re-
main with the father, but an amicable agreement can be reached
587 and the young ones granted to the mother. According to Mikebai,
often the relatives will not permit a minor son to go to the new
429 husband of the widow. A grown son has freedom of choice. The
first of the daughters always goes with the mother, and the others
remain with the successors. Now, however, the daughters too have
the right to give consent or not.

Among the Kirgiz, Kurpetai Daulekulov reports that the sons and daughters remain with the father's relatives after his death. If there are several daughters the biis may allot the youngest one to the mother. According to the report of the Kirgiz Daniyar, a widow who marries a close kinsman of her husband, takes property with her and a young son. But if she marries a strange man she receives neither property nor the son, and the kalym which comes for her goes to the brothers of the deceased and in part for the use of her children. A divorced woman also fails to receive property or her son.

182 If the step-father is killed, the step-son does not have the
right to claim wergeld. Likewise if the step-son is killed, the step-
593 father has no right to demand wergeld. The wergeld is demanded
by the closest kinsmen, and the step-father or the step-son can only
receive a reward for the expenses born by them for the burial. The
step-father has a right to demand wergeld for his own use for a
killed step-son only if there are no other kinsmen.

593 /93/ The wife does the work her husband directs her to do.
She is not allowed to argue (erkbermeymiz). In the absence of the
562 husband the wife feeds herself from his livestock. Even if there are
no means of life for a long time, she still cannot marry another
because of this.

593 There is no obstacle preventing a husband who is absent for
562 a long time from entrusting or reconveying his wife to another. Only
the latter is not customary. (1)
837

1. According to Makovetskii, I.P. 24, this happens: "the biis refuse a husband who claims the wife who has been sold."

Only daughters given to ishans as a gift (nazyr), not wives.

The custom of hetaeristic hospitality exists in secret in the 562
north and in Siberia, but less in the south. In one of the volumes of 837
the Materialy dlia statistiki Turkestanskago kraia, a custom is mentioned where a guest puts his hand on the bosom of a sleeping maiden three times, and if she does not push it away, it signifies her agreement. Bii Sultan Kanaev denied such a right of the guest, adding: "This is unthinkable" (ol suz imes).

A wife and children who have not received their allotment do 562
not have any property. If the wife lives with her husband, she takes 421
part with him in the use of the property (malyna sirik). But she cannot manage the property under her supervision (khatyn biyleb mal 593
beralmeydi). In the absence of the husband she manages the property. For example, on the demand of her husband's friend (tamyr), if he is dependable (isenimdi) she gives him things for his use, or gives them to him as a gift. When the husband returns he may not give his consent, and then the gift is taken back. The same thing takes place with an object sold by the wife in the husband's absence, in accordance with the opinion that "women have half a mind" (khatynnyng akyly yarymdyk) and according to the proverb: "a woman is without a mind, a frog is without a tail" (khatyn akylsiz baka kuyruksyz).

Among the Kirgiz, spouses have common property (inchiles). 421
Wergeld for a wife is not received by her husband, but by her clan. 562
If she /94/ was wounded by someone, the fine for the wound, if 612
the fine was called aibom, is received by her husband. But if this fine was recorded in the decision under the name of wergeld, then it is received by the kinsmen of the wife.

The wife who goes away from her husband does not take anything wiht her (according to Abdrakhman, of the Auliye-Ata uyezd). Maykut (Auliye-Ata uyezd) transmits the information that in antiquity 428
like the Siberian indigenous peoples according to Samokvasov, the property of the childless deceased wife, consisting of her clothing, fur coat, rug, blanket, bridal headdress and kerchief, is returned to her father or the person who married her off with this dowry.

If a wife complains of the squandering or unprofitable ex- 562
ploitation of property by her heedless husband the bii does not accept such a suit in his examination, but sends her to the nearest aksakals, [595]
clan chiefs and authoritative kinsmen.

A wife may trade only with the agreement of her husband. A widow (tulkhatun) is not prevented from trading.

A wife appears in court: 1) on matters of offense by the husband, 562
etc., 2) in place of minor children, in the absence of her husband or 695

562 their guardian. Women are permitted to enter a complaint in court of
685 their rape. (1) In such a case the woman has the right to defend her interests personally before the court. The testimony of women has force only in affairs affecting them personally. In affairs of men, no interference of women is permitted. In the Kazalinsk uyezd, women are not even called to court in matters concerning men and kinsmen.

Women, for example, the wife who is the defendant, are called up for a brief examination, but if she denies her guilt, it is limited to that.

If the wife is in dispute with her husband, no credit is given to her testimony at all (the biis' books of the Perovsk uyezd).

[593] /95/ Wives use the seal of their husbands but not of their fathers, since, according to the explanation of bii Sagyndykov, a Kazakh woman who was bought for a kalym is without rights (ikhtiyri yok), like a slave (churi), like livestock (mal) or land property (mulyk yer).

A woman is not permitted to take an oath. (1) An oath is possible from the woman's side, i. e., from her commune, but this too is avoided. According to the Kirgiz Kurpetai Daulietkulov, it is impossible for a woman to take an oath, but her husband and his relatives can take it. Cases in which decisions were made on the basis of a woman's oath in the absence of male witnesses, are very rare. Bii Abdrakhman does not recall a case of murder, for example, which was committed by a woman, without male witnesses.

562 For a murder committed by a woman, wergeld is not changed.
681 For the murder of a woman, half a wergeld is sought. But for injury of a woman no less is sought than for injury of a man, and

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[684] 1. When a woman declares that she has been raped, and this is based only on one such declaration, the people's court sentences the person accused by the woman to pay a material remuneration to the plaintiff.

1. According to Torgai, the women are allowed to take an oath by the Shariat. He transmits from the words of the elders that in an extreme case they dress the Kazakh woman in men's clothing. Perhaps this evidence is only an attempt to bring the customary law closer to the Shariat.

often more. For the mutilation of a woman, half as much wergeld is paid as for the same mutilation suffered by a man. 562 [681]

In contradiction to the report of I. I. Ibragimov in "Zamtki o Kirgizskom Sude" /Notes on Kazakh Justice/, St. Petersburg, 1878), concerning the judgment of affairs of widows of prominent Kazakhs, Torgai holds that the widows of such persons are not turned to for judgment, and that even if they asked the woman, she could not decide the affair. She can only assist in the pacification between husband and wife, saying to each: Stop, do not scold, this is shameful (koy, yaman syuileme, aib bulady). (2) According to the report of bii Sultan Kanaev, although a woman cannot be a bii, in some villages one can find women who do judge the affairs of women (khatyndy biyley tugun).

/96/ Women do not take an active part in war. If they have enough spirit (gayrati kelse), they defend their village against attacks (Abdrakhman). In one folk epic the wife, named Khanekey, accompanies her husband Zarlyk on an expedition to free the husband's sister.

The woman nurses the wounded relatives. The care of those who are not relatives is left to her good nature. [612]

E. A. Aleksandrov reports that custom in general forbids women to slaughter animals, but in extremity when the men and grown boys are absent from the village a woman can slaughter a sheep for food, carrying out all the necessary religious ceremonials. [231]

Children out of wedlock can fail to be adopted. Then they go to to seek their father. 848

The children of a girl who is not betrothed to their father also go to seek their father. A bridegroom does not consent to take a bride with strange children. He is more apt to make a raid (barymta) to kill the father of these children (Perovsk uyezd). [628]

The people do not permit unlawful cohabitation, but it does exist, and in such cases the men call the women living with them servants, as though they were working for wages. The women in 588

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2. According to Makovetskii, I, p. 31, a village is sometimes ruled by a widow temporarily, until her sons reach majority. On the matriarchy as the oldest structure preceding the patriarchy, cf. Pervobytnoe Pravo /Primitive Law/ by Maksim Kovalevskii, Pt. I, Chapter III: The maternal clan.

588 question, if they do not come to terms with their lovers, demand payment in court for their service. Such a complaint took place in the Kazalinsk uyezd in 1887, by a woman who had lived with a man more than 10 years. The bii rejected her suit against the man.

586 837 848 If after the departure of the husband a child is born after 9 months and 10 days or more, the husband divorces the wife, and she marries her lover, who pays the former husband a kalym, either his daughter or a kinswoman. If the husband does not wish a divorce, he receives the wife with the strange child and a fine from the lover of 2-3 camels (in former times he received a full kalym). If the child was conceived by the lover, but not during the absence of the father, it is considered the lawful child of the husband. According to Torgai, children of widows, born out of wedlock, remain /97/ with her until her death. Before she dies they ask about their father and look for him.

848 It is impossible to speak of illegitimate children of unmarried girls, according to Torgai, for on the steppe all the girls marry (kyz dalada kalmaydy). In the Kazalinsk uyezd such children are buried in the ground. According to Aleksandrov and Makovetskii, a child born of a widow and the brother of her deceased husband is considered a legitimately born member of the family. (1)

[847] 1. Staff Captain Grombchevskii reports the following concerning the attitude of the Kirgiz of the Fergana region to illegitimate children. Bringing a child into the world from fornication not only covers the family of the girl with shame, but also her entire clan. In order to avoid the scandal they try to marry the girl upon the first signs of pregnancy. When this is not successful, they have recourse to stopping the prenancy. This is either done mechanically, or by giving the patient an infusion of the "usma" plant, or finally they put the child to death immediately after birth. Illegitimate children do not succeed the father, and are usually banished from the village as soon as they are big enough to herd livestock or to support themselves by other means. They are called kharam, kharmzade, valadizina, and in the Ketmen-Tiube volost also gartakum (born of a libertine). There are cases, however, when the birth of a child out of wedlock is not considered a scandal, namely, 1) from a groom and bride, if they later marry, 2) from a widow and

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the younger brother of the deceased, whom the widow is supposed to marry, 3) from a master and a servant woman or slave. In such cases the child is not considered kharami, but nikokhsiz, i. e., born without a wedding, outside wedlock, and remains a member of the family, is not despised, and even inherits on an equal basis with the other children.

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It is said by the baksy (sorcerer) Aike, of the Kurama uyezd, that when a woman in labor cannot give birth (balany bittirmeydi) or is giving birth improperly (egri), the sorcerer calls in the spirit Nurperi and others to give her more strength. According to the evidence of E. A. Aleksandrov, during birth they always send for a sorcerer, if there is one in the neighborhood.

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When the moment arrives for the delivery of the child, one woman takes the woman in labor in her arms, placing her knees to the latter's spine, and presses her stomach. The woman in labor says: Press, press! (tart, tart). If the woman's strength is not great enough, a dzhigit /rider/ takes her place. Levshin says that everyone entering the tent during this event is supposed to give the woman in labor a skirt and say: Go out (chyk). According to Torgai this is not done. /98/ When the afterbirth (ui or dzholdas) does not appear soon after the birth of the child, a woman takes a pestle from a mortar (kelesab) and starts to pound the ground in the courtyard. She asks: Has it come out? (tusti me). The women inside the tent answer three times: It came out! (tusti).

Neighbors who know of the confinement do not enter the tent, but anyone who enters accidently, man or woman say: It is born, it is born (tuar, tuar), and must tear half his clothing (itegin yirtady), to make the labor easier. When the woman in labor is in great pain, they [845] assume that the child is in reverse position (ters kel'di). Then one woman lifts the woman in labor with the legs up, asking one of the old women: Is it straight or reversed? (ong ba terebe). The latter answers three times: straight (ong). After this the woman in labor is put back on the ground.

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An hour after the delivery, when the woman who has given birth is bleeding, she is sometimes being pressed down (basady) by the [illegible]d demon (albasty) Martu. (1) Martu will cause her death if a man or a

1. Martu never frightens men.

844 good mullah is not called in who knows how to strike him (Martuny ura
755 uratugun). Torgai transmits from the words of someone who knows
776 how to hit Martu, that Martu appears in the form of a little yellow
girl (sary kyzday). Martu carries disease (yukbaly), and therefore young women do not come in to the woman in labor. In order to bring relief to the woman in labor it is necessary to expel the evil spirit. They shoot off guns for this and make noise outside the tent. (2)

2. Cf. Makovetskii, I. p. 62.

844 A woman never gives birth in the house of her mother, even under accidental circumstances, riding through, etc.

846 After the delivery the mother lies down for 3-4 days, eating fatty food, tea and other small and hot (issyk) food, but not cooling (suuk).

553 When a child is born, they slaughter an animal, and they give
the young men kids for kukbure. The old men are regaled and they
give /99/ the name. When the children are dying one after another,
551 then fate is propitiated in the following manner. They give the child
some sort of humiliating name, connecting it with a notion of long life, for example, they give the name Kuchukbay, saying: Will he not remain among the living in the form of a whelp? (byr kuchukdey tiri bulub yurermeken). Names such as Kutebar, Bokkut, Maykut, Itakyak, Katpa (camel's sickness) are not rare. The names Tokhta
(stop), Tursun (let him stop) must be foretokens of long life. They
751 run a silver ring through the nose cartilage of an only child of male
or female sex, when the other children have died. Often the names originate from words which were spoken by chance by people who came in, for example, if someone said that the child was ugly or blond like a Russian, then its nickname would become Yamanbay, or Orusbay. On the occasion of a general's riding through, one child in the Chimkent uyezd received the name Dzhandaral. Many Kazakhs bear two names.

Examples of female names are Uriuk (apricot), Pistagul' (pistachio flower), Miizgul' (the flower of a plum), Al'magul' (apple blossom) Alva (halva), Khuraz (rooster), Sarykyz (yellow girl), Tursungul' (stop!, or flower), Saltanat (kingdom). Batpa Zaura, i. e., Fatima and Zukhra are the names of girl twins. In the epics one finds the female names of Gul'khanys, Karlygash (swallow), Gul'barchin, Bayan, Dzhibek (silk).

700 After giving birth for the first time, the woman visits the home

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After giving birth for the first time, the woman visits the home of her father (turkundeydi), where she receives gifts, which are not obligatory however. If she does not visit him after the first birth, then she visits him after later ones, but only once altogether.

Circumcision takes place between the age of 1 and 12. It is done by a mullah or a khodja. The circumcision is paid for according to the payer's means, but the payment is obligatory.(1) 852

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1. Concerning upbringing among the Kazakhs, see the article by Ish-Mukhammed Bukin, "Fizicheskoe i umstvennoe vospitanie u Kiegizov" /The physical and mental upbringing among the Kazakhs/, Turkestanskie Vedomosti, 1883, No. 17.

At the celebration of the circumcision (bala kistermek) the rich people slaughter /100/ sheep and arrange a race for which they give kukbure.(1) The celebration lasts three days. Both invited and uninvited guests appear at it, and both are required to bring sheep, money and things with them.

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1. Here kukbure is used in the sense of the kid itself.

A good wife, even when she is a bride, should not call her husband's relatives (kain) by name, out of decency, nor the entire lineage up to that circle of kinship within which marriages are permitted. She must call them by their appellative names, for example, father-in-law (ata), master (mirza), etc. A less modest woman calls them by their names, but only when alone with them. It is also indecorous, although not so reprehensible, to mention the names of the husband's relatives in talking. There is an anecdote (according to Torgai and also in Budagov) according to which an elder wished to test the inventiveness of the women in descriptive expressions and gave his sons the names of the most commonplace objects: Rushes, Water, Wolf, Sheep, Knife, Grindstone. Once a wolf stole a sheep between the water and the rushes, and the bride cried: "Bride's father! Bride's father! Beside the babbling, in front of the stakes supporting the plants, the howler is eating the bleater. Bring that with which there is tinder around the point" (ata! ata! saldyramanyng aryyagynda, sildiramanyng bere yagynda mangramany uul' maehyatyr yanymany bilemege bileb bileb alyb kele koyyngyz). 576 561

The custom described exists among all Kazakhs and has not completely disappeared still among the Challa Kazakhs, i.e., the

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551 semi-Kazakhs, the sedentary Kazakhs who have become Sartizized.

Incidentally, let us recall here the opinion, heard among Russians that among the Kazakhs there exists a prejudice against giving the name of the wife, when asked for it, as well as against naming the exact number of heads of their livestock. 784 The veracity of this is disputed by Khudaikul, who adds, however, that the sharp tone of the question and the persistent demand can cause evasiveness (kulyk). On this matter E. A. Aleksandrov reports from Kazalinsk: " Not only the rich but in general /Inserted page. Picture. Caption: Bii Sultan Kanaev of the Chimkent uyezd. Drawing by Akhmatov/[1] /101/ the Kazakhs do not say the number of their livestock, for fear of attracting the wrath of the gods. It is not even acceptable to say the number of one's children, for the same reason. "

/102/CHAPTER VII.

The use of land and water. - Nomadizing. - Hospitality. - Common property. - Assistance.

423 428 Before the Russian dominion, land was not considered personal property. It belonged to a person only as long as he was on it, or cultivated it. To this day in the northern uyezds land is not transferred by inheritance. The son who receives his allotment in the Auliye-Ata uyezd does not receive a share of the land, of which there still is much in the uyezd. The land remains to the unalloted sons. In the southern uyezds tilled land and land sectors of all sorts are transferred by inheritance.

423 In the Perovsk uyezd, summer camps, winter camps, the grounds appended to them etc., are more and more associated to certain communes and divided among them. The canals, with the land irrigated by them, belong to those who operate them and their heirs.

Among the Kirgiz only those sectors are sold on which there are trees and buildings. They abandon ploughed fields when they depart. These become the property of the person who occupies them.

Summer camps and winter camps are occupied by the Kazakhs by rights of hereditary use. The construction of canals, farm houses, buildings and gardens transforms the land into private property. Shares of lands do not exist. The winter camps are primarily in places where saxaul, shrubs or rushes grow. The summer camps are in cooler places, i. e., further north or in the mountains.

Land use, by this system, is not distributed equally and is found

[1] [Not reproduced --A]

in the hands of prosperous persons, for whom the poor constitute workers. 423

The smaller the number of livestock, the more farming there is. 311 /103/ Since the time of famine in the year of the rabbit, (1) the nomads, realizing the lack of stability of livestock raising on the principles accepted by them, have turned to the production of supplies of grass in winter, and to agriculture.

For the damage of a hayfield from cattle grazing, according to 685 Torgai, they pay the householder damages only if he himself has not ceased to use that hayfield.

If a man who is inscribed in another uyezd wishes to engage in 427 agriculture in a strange pasture or a strange summer camp, the community to whom the land belongs demands rent from him for its use, the amount of which depends on the conditions. The person in question is forbidden to plant trees and to build. But as soon as he is 423 inscribed in that uyezd and volost where his tilled land is, the land becomes his property and he pays the usual tributes (chubauz) and dues.

Swampy places (tugai), overgrown with rushes, etc. are still not sold, since they are widespread. Nevertheless they are becoming more and more associated with the person who winters in them and has stores of hay, with which he frequently leaves people during the summer. Persons of outside communes are not admitted to these winter camps. In case of misunderstandings, these persons pay money for the fodder under foot - chubauz (Perovsk uyezd).

To put through a new canal, one or more workers, depending 425 on the amount of work, come out from each tent of the group of 476 ten, group of fifty, or of the village or in general that group of people 312

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1. The famine of the winter of 1879-1880. For a description of [731] this winter see Nos. 17 and 18 of the Turkestanskie Vedomosti, 1885, in the article by Aleksandrov: "Iz zhizni stepnykh uezdov Syr-Dar'inskoi Oblasti" /From life in the steppe uyezds of the Syr-Darya oblast/.

The cycle of twelve years, by which the Turks determine [805] age and time elapsed, consist of the following names: 1) chichkan, mouse, 2) siir, cow, 3) bars, tiger, 4) koyan, rabbit, 5) ulu, crocodile, 6) dzhilan, snake, 7) dzhilky, horse, 8) koy, ram 9) meshin, monkey, 10) tauk, hen, 11) it, dog, and 12) tonguz, pig.

425 who agree among themselves to be shareholders (kumalak). Each
496 tent participating in this receives a sector of irrigated land commensurate with the number of workers it sent, /104/ the days of work and
312 in general the labor expended (mikhnat). Those who did not participate
in putting through the canal are not given a sector.

In case of departure, a shareholder can rent out his sector, or
427 reconvey it with all rights and obligations to another, from whom he
432 receives a remuneration for the labor expended. Sectors growing clover
312 are not only leased out but also sold for a price which is independent
of the labor expended by the shareholder. In the Kurama uyezd, they sell not only sectors growing clover but every kind of plot. Among both the Kazakhs and the Challa Kazakhs, there is no knowledge of the shafi, i. e., the right of the neighbor as the most favored buyer. The buyer of the sector joins the commune liable to taxation, to which this sector belongs. (Perovsk and Kurama uyezds).

312 The person who puts through the canal and irrigates a certain
425 area of land with it receives the right to the use of this land. The
canal is usually named after him, in addition.

If someone puts through a new canal in the canal bed of an old one, and after a certain length of time the proprietor of the latter appears, they refuse him satisfaction saying: "Why did you not declare yourself sooner? Then we would have put the canal through in another place."

If a certain clan digs out a canal or a well, with the slaughter-
312 ing of an animal before the work is begun, as is the custom, and if it
423 later departs to nomadize elsewhere and another clan settles there in
425 its place, the first clan, on reappearing, will demand its canal or
well. Such demands are made by the relatives, even to the seventh generation. "Here the labor of our grandfathers was expended" (baba myzdyng mikhneti), they say in such cases. If the accused refuse, under the pretext of not knowing about the previous owners, the plaintiffs are required to swear that they or their ancestors dug out the canal or well. If the clan which occupied the canal or well after it was made expended labor on cleaning and repairing it, it is told: "You used the water for this." If they have not yet used the water, they are permitted to settle together /105/ (kosylyb egever) and share in the payment of taxes and dues, but only if they renounce with a written document the rights to the canal or the well. In such a case, the land they occupy is considered only a pledge.

Among the Kirgiz, canals and wells belong to those who first dug them with the slaughtering of an animal, even though others

deepened them and repaired them. The latter must withdraw when 312
the first proprietor presents witnesses or a personal oath. It goes to 423
the later proprietor in the case where no one knows of the digging 425
except the first person. If the second proprietors have planted trees or done building, the water belongs to the first owners and the trees and buildings to the second. The first owner can buy them off, and he can also demand their removal.

Where underground water is near the surface, everyone digs 312
his own well (kuduk). In digging a deep well, to a depth of 5-6 675
sazhens (chingrau) /35-40 feet/, the nomads hire workers who know the business, for pay which is determined beforehand, and which remains the same without regard to the depth at which the water appears. At the same time they enter a condition that no wergeld will be demanded for workers who might be covered by sandy dirt caving in.

According to Umurbek and others, the proprietor of a well 423
can refuse water to a stranger.

There were yarlyks of the khans on the right of the use of water, some of which survive to this day. The yarlyks do not mention land, but canals, winter camps and summer camps. The latter are mentioned without fail in one and the same yarlyk, for the Kazakhs cannot remain in one place the year round. If a winter camp which is owned by the yarlyk remains unoccupied by its proprietor, and during this time others settle on it, the proprietor receives it back, in any case even if they put buildings on it. The son of the previous owner can make the same demand, but never a strange man, whose right to the land was promised in some way by the previous owner. The newcomers give up the building, and remain on the neighboring land.

/106/ If a clan puts in a claim for land planted by another clan,
without founding the claim on any documents, the biis settling this 423
dispute must interrogate persons who are not implicated in the affair, 695
and also the elders from the people. If with all this no one knows whether the father or the grandfather of the plaintiff sowed this land, and even if it appears that they planted for two or three years, about 20-30 years previously, then in the case that the present proprietors have no documents, an oath is demanded of them.

If the fathers and grandfathers of the plaintiff did plant this land in earlier times, and then abandoned it and departed 20-30 years ago, and their children or descendants file a claim with no documents or proof except for traces of kurganchey or winter camps, established by them or their predecessors, then in case the opposite

423 695 side, i. e., the actual proprietors have no documents, these last are required to swear an oath on the quantity of the land in dispute.

If land is planted by two clans, and one of the clans makes a complaint against the other, and during the investigation it is ascertained that one side has a document, and the other does not, and also lacks khan, kazi or beg documents showing that the land is in common between the two clans, then the side which has documents can refuse the other the use of the land.

If both sides on the disputed land have documents they must be carefully examined by learned mullahs who must decide which side has authentic documents and which has fraudulent ones, or those not worthy of attention. Nevertheless, an oath concerning the quantity of the disputed land is required from the side presenting the authentic, weighty documents, in order to support the suit.

If a dispute arises between two clans using common land, on which both sides have buildings, mills and trees, and if one side has nominal documents from khans or begs, while the names of the other /107/ side are not noted in this document, the affair is decided in favor of those having documents. Meanwhile those without documents must be indemnified for the value of their buildings, and then dispossessed from the land.

If one of the disputing sides shows a document delivered by the other side during the peaceable use of the land by them, and the documents says that the side presenting it yields the other a certain locality, or a certain number of kosh (1) of land, or else that a certain locality belongs to it or a certain number of kosh of land, then the side in possession of such a document is required to take the land on the basis of the document. Their claim to a larger quantity of land and water than is mentioned in the document is ignored.

If it is impossible to settle a land dispute of two clans using common land on the basis of inquiries of persons not implicated in the case, or on the basis of documents, it must be found out which side constructed buildings on the disputed land first, and to give an oath to this side.

423 671 The law of 1867 did not touch upon the land organization of the natives at all. Now the code for the administration of the Turkestan area (the law of 12 June, 1886) establishes the land organi-

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1. One kosh is a pair of oxen and the amount of land tilled by them.

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zation of the nomadic population in the following manner.

State lands, occupied by nomads, are left to the public use of the nomads without time limit, on the basis of customs and rules established in the code of 12 June, 1886.

The lands being used by the nomads are divided into winter camps, summer camps and cultivated land.

The winter camps are left to the /108/ public use of each volost separately, without time limit according to actual use and in accordance with the customs, and in case of disputes - according to the quantity of livestock owned and the extent of the economy.

Special assemblies are designated, with the permission of the Governor, among the volosts of the uyezd for the distribution of the winter camps and the examination of disputes caused by this distribution. When there are disputes between the volosts of different uyezds, the assemblies meet with the consent of the relevant authorities. The assemblies, under the chairmanship of a person specially appointed by the Governor, consist of three elected persons from each volost. The judgments of the assemblies are presented by the chief of the uyezd for the approval of the Governor and are entered in special books, which are preserved in the regional administration.

The distribution of the winter camps is made among the masters of the tents by village meetings. The number of livestock and the extent of the economy are taken as the basis for the distribution.

Each nomad has the right to build living quarters and farm buildings on the sector put at his disposal for the winter camp, and the community may not demand their removal. These buildings constitute the property of their owners. The land occupied by the buildings is transmitted by inheritance as long as the constructions exist. When the buildings are destroyed the land reverts to the community.

The summer camps are left to the public use of the volosts of the entire uyezd, and the actual use by them is determined by customs. The Kazakhs of the Syr-Darya oblast retain the right to cross over into neighboring steppe regions for summer nomadizing, but these are used with the permission of the Turkestan Governor-General, who enters into preliminary consultations with the steppe Governor-General concerning this.

After the mutual agreement of the communities on places suitable for both their winter and summer camps, special sectors are set aside for those wishing to engage in agriculture and growing hay. The distribution of land among the agriculturalists /109/ is left to a voluntary agreement among them according to custom.

423 Buildings raised on the tilled lands of the nomads become their
671 property, on the same bases which have been established for buildings on the winter camps.

Lands which lie under nomadic and livestock driving roads are left to the general use of the area. (1)

1. Articles 270-279 of the code for the administration of the Turkestan region.

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233 Nomadizing (kushpek) is one of the oldest forms of life, and
221 is inherent to the herdsmen because of the fact that the many animals in their herds soon exhaust all the fodder under foot if they remain in one place.

The Kazakhs follow ancient custom in nomadizing even to the present time. They move about in communities of one clan, permitting only kinsmen in the female line or poor men, hiring themselves as workers, into their villages from other clans. Every clan has its precise places of summer (dzhaylyau) and autumn (kuzdyau) nomadizing.

On the eve of their departure from the winter camp they have a feast. After the feast, two fires are lit between the pillars of the gates, or if there are no gates, between a construction built to resemble gates. An older woman, who stands between them, takes a vessel made of a gourd (kabak) and breaks it, saying: "All sorrows have flown away with the breaking of this vessel" (kabak syndy kaygy kitty). Then the same woman takes the camels, which are already loaded, and leads them out of the enclosure. At the same time men,
[782] women and children jump across the fires, saying: away, away!. (alas, alas). They go about 5-6 versts from the winter camp, stop, set up their tents, slaughter horses and sheep and arrange a kudai, i. e., a sacrifice to a god. During the slaughtering of the animals, they say: "May we be as happy in /110/ a new place, as we were in the old" (iski dzhurtta isorke dzhanga dzhurtta dzharlyka).

They nomadize in groups (tap tap) of various numbers of tents. Setting out on the road is not determined by the authorities. The master of each tent is free to move or remain, as he wishes. The aksakals, or according to the Kirgiz Kurpetai Dauletkulov, rich men, give orders but do not insist. The same is true of the selection of places to stop and the grouping of the tents. In the summer they live more spread out, (tarau), and in the winter more compactly. They do not come close to each other, because there would be a shortage of grass and water, and the livestock would begin to get mixed. The milking animals (sauaman) are grazed around the village itself, where they are milked twice a day. The remaining animals graze farther away, where there is more grass. Camping along roads, even small roads, is avoided. If they are obliged to camp on a road, they hide themselves behind a hill, in order not to have guests. Those who live along the roads are buzagery (1) and the most desperate people.

1. The sellers of buza - an intoxicating drink made of millet. [273]

In former times migration to a new place took place (according to Mikebai, of the Perovsk uyezd) without a preliminary request for consent from those living near that place. Now it is required, at least from those who have livestock, to send a scout a day in advance (konys karab kitpek). If someone has migrated in without permission and refuses to leave, they give him a beating for which he cannot complain to a bii. However consent for a migration to come in is not refused without particularly important reasons. It is refused where the pastures have been allocated. According to Abdrakhman (of the Auliy [illegible] a uyezd), nomad Kazakhs (elbay kazak) can migrate with livestock without permission into the steppes which are not divided up into hayfields and other sectors.

A scout who finds a new place, for example, a well, unoccupied, places a mark (bel'gi) by it, a spear or an object, or draws his seal on the ground or ties high grass together /111/ growing beside the well or spring. When they see the sign others will already avoid choosing this place for their camp.

If the leader of a nomadic group selects a place for it and does not mark it with one of the signs listed above, and then departs to inspect the surrounding pastures, and on his return finds the leader of another village occupying his place, the declaration of the first leader is not taken into consideration. When two leaders who arrive at the same time from opposite directions dispute over the same place, the dispute is settled in the following fashion. If one of the disputants is a bii, and the other an aksakal known throughout the clan, a chief, then the place is yielded in favor of the latter. If the dispute takes place between a bii and a simple Kazakh, the area in dispute remains with the former. If the two disputants are simple people, it is decided in favor of the oldest. The same thing takes place if both men are biis or aksakals. If the

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233 disputants are the same age, the seniority of the clan or the lineage is taken into consideration.

[423] Among the Kirgiz, no one can occupy a summer camp where a certain clan has nomadized for a long time. It is possible to say: "I have no summer camp. Permit me to be your neighbor" (kongsylash). But nothing can be done in case of refusal, for what right can be had to a strange summer camp? (brauning yailauinda nese bar).

If one clan enters the pastures of another, representatives of the latter receive kurabashi from the former, i. e., one sheep from each herd. (1)

1. Kura - a herd up to 600 heads.

[415] If a village migrates to a locality near which another village is already camped, and the livestock of the former should worry or kill some animal belonging to the village which migrated to this locality first, the former group must pay the injured party for everything he has lost. But if the livestock of the village which arrived first worries or kills an animal belonging to a village which migrated there later, the latter receives no remuneration at all.

514 /112/ The ancient custom of the gratuitous giving of food (kunakasy beru) to a guest (1) and his horse, and a place to sleep is

1. Calling the guest "of God" (khuday kunak) is probably a transposition of the Sart proverb: "A guest is a gift of God" (mikhman atai khuda).

based 1) on community of property, for the Kazakhs call this kunakasy the unalotted property of Alasha (Alashtyng uleismegen inchisi), (2) and

2. Although according to the sense of this saying, non-Kazakhs do not have a right to kunakasy, they too are not refused.

2) on the fear that if the guest dies of hunger wergeld will be demanded for him.

Tradition attributes the establishment of kunakasy to the Kazakh clan founder Alasha. In his old age Alasha kept a part of his livestock for himself and divided the remainder of the livestock among his three sons, from whom the three hordes existing today are descended. He called the share of the property received by each of them inchi, i. e., the imprescriptible and inviolable property of each of them. "But," he added, "under the conditions of your nomadic life, because of your kinds of occupations, in herding and because of your estrangement from sedentary life with 574 its commerce and bazaars where every traveler, no matter where he comes from, can find shelter and means of life for pay, it will be difficult for you, especially when your descendants are multiplying, to travel from one to another with your own food supplies. You do not carry your own sheep with you on a day's journey, much less carrying a beast on a long journey, especially with your manner of riding astride. And therefore here is ny eternal testament to you. Do not take pay for food on your mutual visits to each other. Always be with each other like invited guests. In this way you should have the right of kunakasy or shelter and food as a gift without pay each from the the other. Take one quarter of the property remaining with me for this, and consider this no longer as hour own property but as common property and as an inchi which is never divided among you until the end of eternity." May it be so. We will not forget your /113/ testament was the humble answer of the children of the noble Alasha, founder of the clan.

According to the report of bii Mikebai (of the Perovsk uyezd) the master of a tent pays wergeld for a guest who dies of hunger, and for his horse which dies of hunger, he pays another horse. This does not happen now (according to Kunakbai, of the Auliye-Ata uyezd). At least in the year of the rabbit, many died of hunger, but there were no suits for not having given kunakasy. Among the Kirgiz they also do not pay wergeld and do not pay for a horse which has died of hunger.

When they hear of the coming of a guest, those closest to 574
the tent bring their mite on their own initiative for the kunakasy. 576
Urban Kazakhs (of Auliye-Ata and Tashkent) give their guests only shelter, and for food the guests go to the bazaar themselves. The Kirgiz leave the welcome guest alone with the feast. It is the business of the guest to invite the host in or to give him the leftovers (sarkyt)

The attitude of the Kazakhs to hospitality is indicated by the proverb: "If a guest stops once, this is happiness, if he stops twice it is misfortune. " (kunak br konsa kutteki konsa dzhut).

The host only answers for the safety of the guest and the protection of his property if they are not at war, or in a feud or in personal enmity. Nevertheless there are cases (according to Torgai) where a plaintiff appears in his adversary's tent, and people there exhort the master of the tent to forgive the offense, since they say, the appearance in the tent is a sign of submission and honor is now satisfied (aldynga kel'geni namusyngnyng bitkeni). They advise him to forgive the adversary, recalling the proverb: "If someone comes in to you, forgive him even the wergeld for your father" (aldynga kelgende

574 atangnyng khuny kitse de kish).

576 For insulting a guest a complaint is made on a general basis, although it is advised to argue with him„ and not to offend him (azar bermek) in accordance with the proverb: "When they come into your tent, do not speak forth your claim, even though it be as big as the tent" (uinge kelgende uydey dauyng bulsa da aytpa). To call a guest or a person hiding from the pursuit of evildoers a thief or a criminal for no reason, and to take him /114/ to the authorities is not reprehensible if the guest is not a close kinsman. The right of sanctuary is known (1) to the Kazakhs and Kirgiz. A thief and someone accused of thievery is not accepted as a guest and is handed over to the person who demands his delivery. If (according to Abdrakhman) a man who is pursued by an enemy asks protection in some tent, and his enemy enters the tent, then both are driven out and left to cut each other up in the steppe. However, this depends on the personal qualities of the master of the tent.

The responsibility of the host for anything stolen from the guest is now more in vogue than it was previously.

When a newcomer, known or unknown, stops before the setting of the sun at some tent, the master of the tent either slaughters a sheep for his regalement or makes amends to the guest with kind and welcoming words. If the guest considers the latter short shrift and he himself slaughters a sheep from the herd of the owner of the tent, the guest will be judged as in the right and the host guilty. (Report of bii Shanchi Chinybekov of the Auliye-Ata uyezd).

[422] The community of property of the Kazakhs is founded on the clan principle. The closer the circle of kinship, the more the members 612 of it use each other's property without control. Children take from their parents what they need or what is pleasing to them. Thievery in the circle of the family is only called "taking away secretly" (yasyryb algan). Nephews on the wife's side (dzhien) always steal from their uncles (taga), according to the saying. The brother-in-law (the sister's husband - yezna) and the uncle, in accordance with their powers, add (kosady) their share to the kalym. Mutual suits among matchmakers are examined by the biis very unwillingly. They are reconciled directly on the basis of kinship (biis' books of the Perovsk uyezd). Male first cousins on the father's side (nemere) support each other by livestock without incurring a debt, by the ad-

1. Levshin states the same, Part III, p. 82.

vice of the aksakals (yakhsy ksiler) (communicated by Kunakbai). 612 When the kinship is more distant, if they do not give livestock they give something cheaper or else food. /115/ An aksakal makes a collection from the people (yurtchilik) for the benefit of the poor, even against people's will. A collection is also taken from the people for influential people, to pay their private debts. (1) Poor people who beg support from their rich relatives and do not receive it, steal from them or borrow what they wish for a time or forever. Prizes for races are divided by the clan of the winner. The seeking of wergeld among kinsmen ends with a wergeld "of kin", i. e., a small wergeld (karyndas khun).

According to bii Sultan Kanaev of the Chimkent uyezd, assist- 612 ance is asked of relatives, under the name of nemeurin or dzhylulaye- 735 kan, under the following circumstances: 1) when someone is deeply in debt; 2) when someone has been ruined because of a false suit against him; 3) when someone is required to pay a wergeld. (2)

1. From the affairs of the Syr-Darya Regional Administration, it is evident that also under Russian domination, collections are made from the population for influential people, with the permission of Russian authorities. Thus, one of the uyezd chiefs presented for the approval of the military governor a judgment of the volost deputies of the Dzhulek volost for the sacrificing of one ruble from each tent to cover the debts of the volost administrator Ayake Bikdzhanov. He received an answer from the military governor that he did not consider it "suitable to approve officially a collection of one ruble from each tent on behalf the volost administrator Bikdzhanov." (Instruction of 17 March, 1876. No. 2727). In 1878 it was permitted to take a voluntary contribution from the Kazakhs of the Dzhulek volost, of an amount not exceeding seven thousand rubles for the payment of the private debts of the same Ayake Bikdzhanov, in view of his exemplary fulfillment of official duties during more than ten years and the extremely poor position of the family remaining after him. (Proposal of the military governor to the chief of the Perovsk uyezd, 21 August, 1878. No 4127).

2. He who wishes to turn to the people for general help, invites representatives of the sections of the clan to him,

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> feasts them, and then makes a speech to them, in which he tells of his failures, or his straitened circumstances, ending by pointing to their ancient custom, established in times long forgotten, when people like themselves helped each other. The suppliant never fails to bring in the proverb: "If water is taken from a lake with spoons, the water does not decrease. In the same manner a community which shows help does not become poor" (kisyk tap algan minen' kul' tausyk mas bergek mek musaparge il' tausul' mas). To this they reply: "If one man spits, nothing comes of it, but if a whole cummunity spits, a lake is formed" (ber tu kurse ber bular kak tukurse kul' bular). And thus the question is resolved for help to be shown by the general people.

However, help in the payment of debts, as bii Sultan and Khalmakhammed were obliged to admit, is always shown in proportion to the influence (kadryna yarasa) of that person in the community who has become indebted So that if an uninfluential but good man went in debt for a large sum and turned to his kinsmen, their contribution would cover only a small part of the debt.

/116/ According to Torgai, it is necessary to distinguish dzhilu and yurtchilik. Dzhilu is the forced contributions of friends, kinsmen and relatives, in case of fire, plundering of the village by enemies, the payment of wergeld and hunger. Yurtchilik is putting the debts on the people. In both the dzhilu and the yurtchilik, reciprocity is a condition of this contribution. But in the yurtchilik they are almost forced to pay, under the pretext that in the time of their fathers and grandfathers there were cases of reciprocal yurtchilik, or by threatening to cut off the hems and thus to end the mutual giving of yurtchilik (yurtchilik kylmaska itek kesti kylamyz). Incidentally the hem is not cut off. This is only a metaphor.

The poor person who asks for support says to the rich man: "Give me the grass of your livestock" (malyngnyng shubin ber magan), i. e., remunerate me for my right in common with you for that grass, on which your livestock are grazing. Support, in the form of a collection from the people under the direction of an aksakal, is arranged when all the livestock of the poor man have been slaughtered. Anyone who refuses to contribute loses the right to support in his turn, when a similar disaster happens to him.

This support extends even to the service of mating bulls. If

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the owners of these animals are poor, they demand pay for the loan of the male animals saying: "Give for his strength (sidigin ber). They are given a kerchief or another article, called aktygy, i. e., "for his blamelessness" or else are lent a working animal.

At present, the yurtchilik is already going out of use, this being particularly noticeable in the southern uyezds of the Syr-Darya oblast.

A very little known custom is that of giving out all the milk or butter of a given village by turns (kezek), one day to one tent, another to another, etc. This depends on common consent and is done by good people in order to support those who have little or no livestock (Perovsk uyezd). In the Chimkent and Auliye-Ata uyezds it is said that this is a custom of poor Sarts who own one or two milk animals apiece /117/ (saun or sauaman). Among the Kazakhs and Kirgiz, kezek is for the purpose of preparing cheese (kurut and irimshik),(1), where much milk is needed at one time. This giving out, based on reciprocity, is equivalent to a sale, satulu.

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In the Auliye-Ata uyezd, the custom is known of assistance (khashar) during construction, field work, etc. The person who is invited offers food, but it is not obligatory to appear. Among the Kirgiz there is also a custom of assistance. The help continues no longer than one day, otherwise no one will come. They do not go to poor people, who provide poor feasts.

In the Chimkent uyezd, one who has suffered rustling /baranta/ has the right to demand that his neighboring kinsmen go with him in pursuit of the rustlers. These helpers are called kumek. If a kumek is killed, the person who invited him to join the chase bears no responsibility. (Communicated by bii Sultan Kanaev).

According to Torgai, as soon as a person has work to do which is not within his power, he asks for help (kumek chakyrady, asar kylady, kubdesib kylady), for example, in rustling, in building a memorial over a grave, in field work, even in cleaning a canal if he himself is ill or advanced in years.

For rolling up felts and other woman's work the girls and women call for help (kumek), according to the communication of Aleksandrov from Kazalinsk.

1. Irimshik is obtained by boiling the milk a long time, with the addition of "mandil" or "zhutkunchak" (neck gristle) from a slaughtered lamb. [234]

/118/ CHAPTER VIII.

Hiring out. - An object found. - Objects entrusted for safe-keeping. - Gifts. - Trade. - Debts. - The value of animals by customary law. - The transport of cargo on camels.

241 Among the agriculturalists there is a form of hiring of workers 465 on shares. Well-to-do people give the worker sustenance and seeds and lend him their livestock, land and tools during the field work. The worker receives a remuneration from the harvest, depending on circumstances, of one-fourth to one-half. If there is no harvest, there is no remuneration.

463 In addition the hiring of servants (yalchi) exists, for 1) pasturing livestock (the shepherd is called kanchi, or specifically, koychi 465 for sheep, dzhilkychi for a drove of horses, kelakhtachi for geldings), 2) for field labor (eginchi), 3) for domestic services (dzhigit, khyzmekter) and 4) for official errands (yasaul) for the volost official, the bii, etc. These servants or workers are hired by the year, or, rarely, by the month or the day. The servants receive pay either in full in advance, or half in advance and the remaining half after a certain period. In case of resignation by one side, an accounting is made by days and the worker returns to the employer anything extra he has received. The presence of witnesses when the conditions are drawn up is not obligatory.

466 The master calls his servant "balam" (my son), "adamym" (my man), or kuzim" (my eye). In accordance with this last appellation, the servant is obliged to avert losses, even though these may not be related to his specialty.

Servants are held responsible for intended (kasdan) damage which they cause. They are held responsible on a general basis for stealing from the master.

For damage and losses, resulting from neglect (bigamdiktan) and lack of watchfulness (khatadan), for example, breaking things, loss of a sheep, a servant does not pay, except in cases where the condition was made that he would pay.

/119/ A master may scold and even beat a hired servant up to three blows with a whip, with impunity. With the fourth blow the master is already considered in error (aybday), and after this the servant can complain. A servant dare not scold or beat his master under fear of being sentenced to pay an atton and to beg forgiveness.

A master who is touched by the plea of the servant, who throws himself down at his feet and holds him by the hand, sometimes forgives the entire suit. When there are blows from both sides, the matter passes without attention. 466

A servant is not fined for negligent service, but is only dismissed with a settlement. At present some require a servant to pay for damage resulting from his negligence. For example, if a sheep is lost during the day, some sue for half or one-third of its value. But if it is lost at night the shepherd is not guilty because he sleeps at night. Sometimes a koychi gives a friend a sheep belonging to his master, which the latter does not even miss. The shepherd justifies himself by saying that it ran away. If the deception is uncovered, the shepherd pays the value of the sheep and an additional fine in the amount of one sheep. If the master recalls that there were losses of sheep even earlier under this shepherd, he then requires an oath concerning these losses from the shepherd himself, or if the shepherd lives with his family or his kinsmen, he requires the oath from them. The master may consider it a dishonor to himself to take an oath from a shepherd as a person not his equal (koychinyn dzhanyn almaymyn, durus ksi imes). In this case the biis require the oath from the master himself. 466 233

The shepherd is not held responsible for sheep eaten by wolves even when conditions had been made for reimbursement of damages. A shepherd is not held responsible at all for falls and natural death (adzhal') of the livestock.

Only a rebuke, but not a suit is made for the shearing of wool with scissors (kyrktys) from the master's sheep by a strange man or by the shepherd himself, for the wool, milk and working power of the animals is considered "the beneficence of the animals" (malnyng khayry), and no payment is made for their use. /120/ A person who demands payment for them is reproached with the words: "Let that man perish who has not grown wealthy" (bay bolmay ulsin).

A strange animal joining the herd (buralky, nukatyk) is in general acquired by the shepherd. A greedy master can demand it for himself on the ground that his livestock attracted the strange animal. Among the Kirgiz a strange animal joining the herd goes to the shepherd if he does not declare it to his master. But if the master finds out about it, he demands it for himself because it joined (singib kitti) his herd. Some keep the strange animal (bularky in Kirgiz), others slaughter it for kudai, a feast of the people. Under the Russian dominion it has been established that a runaway or strange animal 466 233 425

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425 joining the herd must be presented to the authorities. The master who
loses an animal turns to the authorities who investigate the whereabouts
233 of the lost animal.

According to Makovetkii (I p. 43), the amount of syyunchi
425 for the presentation of a lost animal goes up to one-fifth its value. An
exception is the sheep: the person who finds it keeps its offspring, and returns the lost animal to the owner. But if he spoils the sign of the owner on the sheep, then he returns the sheep and its offspring. Torgai says that the person who finds a pregnant sheep returns the ewe and the lamb to the owner, so that if the finder ever loses a pregnant ewe he will also get it back with the lamb. But if the owner of the found ewe declares himself only after two or three years, he is given one ewe, "in accordance with the customary law and the Shariat, " and they say: "If you recognize your lamb, take it" (kozysyn tanysang alakoy). Torgai also knows another opinion, by which an owner who appears after two or three years is granted only half a sheep, having in view the expense and labor of its maintenance (bagyb kagyb). If the person who found the sheep denies it, the oath is required of the owner himself. For the return of his lost horse, cow or camel, the owner must present seven witnesses (isbat), of whom two must swear an oath. If the finder has informed everyone of his find, it is not thievery for him to put his brand on it.

/121/ Livestock are kept for two or three weeks. After that, they declare to the volost administrator that the owner has not appeared.

If the animal found gives birth to a calf, the calf is not divided from its mother and also belongs to the owner, while if no owner appears, it belongs to the finder. If many livestock are lost, and fewer found, the finder is accused of having hidden the rest. This kind of case is settled on the basis of testimony from unimplicated persons, without an oath.

Things which are found (nerse, buyum), go to the finder if no one witnessed the finding. If there were witnesses, the find is kept by the finder from one to two months until the owner appears, who then receives his object for the payment of syuyunchi.

The longer the object is kept, the larger the amount of the syuyunchi. Speaking approximately, for an object worth 1 ruble, the syuyunchi amounts to 20 kopeks, for something worth 10 rubles, 2 rubles, for something worth 20 rubles - 5 rubles, for a horse - 1 tillia /3-4 rubles/, for a camel, 5-8 rubles. If the owner of the thing does not declare himself, it becomes the possession of the finder.

When money is found it is divided among all those present when it is found, with the obligation to give it up if the owner declares himself.

425 576 If the youngest among the travellers finds a coat, cap /tyubeteyka/ or other parts of clothing, he gives what he has found to the eldest, on the demand of the others. If all are of the same age, the thing found is given to the person of the white bone. If there is no one belonging to the white bone among them, it is given to the guest, i. e., the person of a strange clan. If there is no guest, it is given to the mullah. If there is no mullah, it is given to the married man, because married men are in general senior to bachelors. If all are married, it is given to him who married earliest. This giving out of clothing is called baylagan.

425 224 If a fox is seen in a strange trap (kakpan), the finder takes it for himself and leaves the trap. To take the trap is to steal, but taking the fox is not stealing. (1) Even in /122/ court when the trap is required to be given up, it is never demanded that the fox taken at the same time be given back.

224 If a hunter (mirgen) kills a wild ass before others, he gives its back (sauri) to the oldest of these, or to the mullah, and in general as was related above. The giving up of the animal which has been shot is called syralyga. (All the above information from Torgai).

425 In the Perovsk uyezd, money, clothing, strange livestock joining the herd, etc., which are found, remain with the finder, and it is brought to the knowledge either of the supposed owners or of the authorities. Then the find is given back to the owners for syuyunchi, which is equal to one-tenth or one-twentieth of its value, i. e., approximately four times less than when it is taken from a thief. They are given back to kinsmen without pay. If the owner of the object does not declare himself in one or two years, the object found becomes the property of the finder. If the find was not announced to the public (dzhau kege shygarmak) with the purpose of appropriation, and then the owner of it appears, then the object, or if it no longer exists the value of it is returned to the owner, with all his court expenses, but without a fine. The concealment of a find from the investigation of an owner is considered thievery. [685]

1. If an owner of a trap or a hunter with a dog catches a first fox, and if a Kazakh who rides by by chance, even a stranger, announces that he needs it /122/ for a gift or for the success of his future hunting, the hunter gives it to him. In case he refuses he pays a fine.

425 Among the Kirgiz a find belongs to the finder, with its division into parts for the witnesses of the find.

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422 577 Scrupulousness with regard to objects accepted for safe-keeping (amanat) is a moral obligation, but not a juridical one, as is evident from its name: "godly amanat" (kudai amanat). Therefore objects are given for safe-keeping only to persons one knows well, or to kinsmen.

422 685 672 Objects being kept in safe-keeping are returned to the owner on his first request. The owner beats the guilty person for their fraudulent loss and sale, calling him to account, as though for robbery. The keeper is not held responsible for an accidental loss, reported immediately to the elders or authorities. The Kirgiz have /123/ the same custom. For the undeclared loss of an object which was given without witnesses, an oath is required from the defendant or the plaintiff, if they are good people. On the basis of the oath they may or may not require the return of the object and the payment of court expenses, but there is no fine or other penalty. If the object was given before witnesses, the judgment is made without the oath. If expenses were connected with the acceptance of the objects for safe-keeping, these are paid by the owner.

If the person who has accepted the object requested it himself for temporary use, he pays the expenses connected with its transfer, also for the deterioration of the object from use, and for accidental damage and loss (for example, the loss of livestock during a snowstorm).

Cargo being conveyed by drivers is also considered something entrusted for safe-keeping. The loss of the cargo by a driver who has engaged himself to deliver it to its destination is equated with premeditated robbery, i. e., the value of the cargo is returned with a fine of double the value. In case the driver was forced by necessity to transfer the cargo to another person to deliver, he is freed from the responsibility, upon presentation of a receipt from this person.

If in a fire or other general calamity (tengri kazasy) only the amanat perished and no other property, the full value of it is required to be paid. If, however, the amanat and the property of the person keeping it both perished, then the latter either pays half its value, or else pays nothing at all (Perovsk and Auliye-Ata uyezds). An agree- 422 ment is made concerning the degree of responsibility for the object

entrusted for safe-keeping before it is accepted (the Kirgiz Kurpetai 422
Dauletkulov).

When someone migrates with his herds into a strange winter camp, he usually asks its owners to give him a place on the conditions of amanat. At first they refuse him. Then he promises to repay them. After this, in part for the sake of a good deed (savab), and in part for profit, they give him a place, but for no more than one year.

In contradiction to Makovetskii, according to Torgai it is not 426
customary to lend out milking animals for money. Oxen, horses and camels are lent out on shares (seriklikke) for agriculture.

/124/ If an animal which has been taken as an amanat is re- 422
turned in a very emaciated condition which makes its owner think that it will not live through the winter, then the person keeping it for safe-keeping promises to feed it until the spring.

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Something which was given or contributed for a pious (nazr) 431
or charitable (kudai) end is not returned, nor is a gift intended to honor a superior (izzat) or a inferior (inam) person.

Clothing given by highly placed personages should be worn [576]
during presentations to these persons.

Gifts for friendship, called kolka, are subject to return if they are not reciprocated for by similar gifts in the course of a certain time (Auliye-Ata uyezd). Among the Kirgiz, stealing one's gift back is [685]
punished like ordinary stealing. According to Torgai, the bii says to the thief: "Why did you give it away? Now it is already his property." The defendant replies: "My relatives did not consent to the gift which I gave. I was ashamed to demand it back, and therefore I stole it." The bii either requires him to return the stolen object to the one to whom it was given, without a fine for stealing, or else sentences him to a fine, without returning the object, since the thief was its owner.

If someone is driving military booty, those who encounter him say say: "Hey heroes, give us sauga! (1) Then it is obligatory to give up a horse, sheep or some other object.

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1. Among the Kazakhs sauga means a gift asked from those returning from war (according to bii Khalmakhammed). Among the Sarts, however, sauga or saugati means the same as what the Kazakhs call bazarlyk.

005 a horse, sheep or some other object.

735 When the farmers are threshing, gathering the grain from the threshing floor, or measuring it, poor people who do not have their own fields go about to the threshing floors of their clan or community and collect alms, keusen. They are usually given a wooden bowl containing from 2 to 6 pounds of grain, or else one or two handfuls. /Inserted page. Picture of girl from the Perovsk uyezd.[1]/

431 /125/ "Bazarlyk" is asked from someone who is riding back from a bazaar.

If a bii concludes a matter successfully, the people who are close ask for "satal" (1) from the biilyk he has received.

1. In general satal is given by everyone who has gained a profit or made a find. (Bii Khalmakhammed).

If a rich man gives his son a small allotment, the latter turns to his sisters, matchmakers and respected outsiders and asks for "inchibasy" (Torgai). They give him something, for example, a ewe, with the wish of increasing his herd. (2)

2. According to the communication of the Kazakh Katpa of the Kurama uyezd, inchibasy is set aside to support the mother in her old age, before the division among the family. According to bii Sultan the word inchibasy denotes in general that cow, good horse or other good animal which is selected (tanglab alady) by the persons receiving their allotment, or by their father or mother, as the "beginning" (bas) of their allotment.

If the father has arranged the betrothal (ayttyrsa) of a bride for his son, the latter asks a man of the same age for a congratulatory gift called "nemeurin." This one gives him something, thereby gaining the right to demand a similar gift when he is in a similar position (Torgai). According to bii Sultan, the nemeurin is customary both during the allotment and during the kalym. In the first case the kinsmen give sacks, lassos, utensils and livestock, and in the second case only livestock or money.

A person who has bought something new is greeted with the words: kutty bulsyn, i. e., to your happiness! The owner of the object expresses his thanks by saying: aytsyn, or kuttuktamak sizden bulsyn. In the first case they demand a gift of "baygazy" from him,

[1] [Not reproduced --A]

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under the threat of cutting off a piece of the new acquisition, for example, the toe from a boot. In the second case he himself asks a gift from the person who greets him. If the new thing is a coat, the women (without the greeting) ask for a gift for sewing on the fastenings, "tonbau", even though they do not sew them on, or itekkesti, "for cutting off the hem", threatening to cut off the hem.

If the wife of a friend gives birth, it is necessary to send cooked mutton by a third person, with a piece of material for a shirt for the baby. The husband of the woman who has just had a baby asks: "Why have you come?" (nege kel'ding). The person sent replies: "I have come with /126/ a greeting" (kuttuktab kel'dim). The former answers: "Choose what you wish" (kalagandyngdy ayt). The envoy chooses an animal or a hunting bird, saying: "I came to ask this" (sony tilete kel'dym), and then he receives it.

When it is planned to arrange a betrothal to a beautiful girl, and she lets it be understood that many already have her in view, and therefore it is necessary to leave some sort of substantial proof of one's words (byr nishane kylsang iken, byr bil'gi kureyetib koysang iken), one animal is presented, with a promise to come for a betrothal. This gift is called kargybau or batayak.

On moving into a new dwelling or halting place, the neighbors give the greeting: 'konys kutty bulsyn", or: "konys dzhayly bulsyn." The gift to the guests on moving into a new dwelling is called erulik.

If someone enters accidentally into a place where women are engaged in weaving or in making felt, the women hand him a piece of wool, the acceptance of which obligates him to give a gift, like a muskmelon, etc. This custom is called "yung salu." Women working on tobacco plantations give tobacco instead of wool, called "temeke salu."

People who meet a hunter ask him to apportion parts of his game, under the name of "chyralga."

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The time and place for trade is not limited by any rules. On the steppe, Sarts, Kazakhs and Tatars exchange manufactured goods, dried fruit, medicines and other objects for wool, fleeces and other products of herding.

Among themselves the nomads buy and sell on credit /v dolg/, with various terms of payment. Witnesses of a bargain are not obligatory, but when the seller and buyer do not know each other there are usually guarantees.

000 usually guarantees.

It is possible to sell property in the absence of the owner only
437 under the following circumstances: in case of close kinship, of trust,
432 and by order of the authorities. (1)

1. In the latter case they choose only that animal which in not working, not in a caravan, in general the least necessary one.

/127/ An object purchased from minors is returned without fine on the demand of the father.

[685] A person who knowingly buys something stolen is considered
a thief.

The buying of livestock or objects which are not in sight is
437 avoided. But if they do buy sight unseen, a horse is understood to be
a five year old stallion or a three year old mare, and a camel a five
year old male or a three year old female (Perovsk uyezd).

A deposit is unknown to the Kazakhs.

At the bazaars there is always a special middle man (del'dei') for each type of livestock, a Kazakh or a Sart, who tries everything to bring the two sides to an agreement, putting the hand of the seller into the hand of the buyer by force.

In addition to shaking hands, the act of sale is validated by the seller by the words: Use it with good fortune, etc. (bereke tap, khayrin kur, iygliginga tutun, etc.), and by the buyer with the words: "May one be returned to you a thousandfold; May you too benefit" (biring myng bulsun, sen de bereke tap).

437 Both sides can still back out until the money has been paid.
After the payment they cannot. However the seller can take back
432 the object sold, with the consent of the buyer, for a certain sum
to pay it off (pshayman, pshaymana). The buyer too can request, but
not demand, of the seller the breaking off of the sale if the animal
is in the same condition as it was at the time of purchase.

If in about a week's time faults are shown in the animal which were not mentioned during the sale, but outside people knew of their existence, the buyer can refuse the animal or demand the return of the money paid. In anticipation of this, it has become customary for the middle man to say to the buyer during the sale: "Look yourself, to see if the animal is absolutely healthy. Once you have bought it, it will be yours, even if it dies today." (Collected in the Perovsk uyezd).

In the Auliye-Ata uyezd, according to the communication of bii Umurbek, the sale of an animal /128/ is broken off (saudasy kaytady) without a fine, when the owner does not mention its faults which are known to him, but not later than 2-3 days, depending on the type of livestock, since a deadly disease in an animal is recognised in a short time. (1) If a sold animal dies, the buyer does not receive his money back, because he could have filed a complaint before its death. In a sale a period of time is often designated within which it is still possible to return an animal for the sum which was paid for it.

According to a communication from Torgai, an agreement con-concerning the faults of an animal is usually one of three kinds:

1) During the purchase it is asked whether the animal has anything wrong with it. When the answer is negative the buyer suggests the designation of a period of 3-4 days, within which he can return the animal if faults appear in it.

2) The seller, who is hiding the faults of the animal which he is selling cheap, says: "Look yourself. Take it or leave it, as you like. If you cross this mark (drawn on the ground by him as he says the words) the animal is yours."

3) The seller declares: "If it has a lawful defect (aybi shar"y) (2) I will take it back. But if it is sick it will stay with you." If later one of the aybi shar"y is discovered, it is declared the next day. If the seller says to this: "This defect was not there yesterday, but you saw it yesterday", then an oath is designated, namely, they give one of them (preferably the buyer) a choice between receiving an oath from the seller that the defect was not there yesterday, and giving his own oath that it was there. If both sides are unwilling to swear, the animal is returned to the seller with a buying off payment from the purchaser, or else the animal remains sold and the buying off money is paid by the seller. If the seller has gone away and only the warrantor, i. e., the middle man is at hand, who has received the middle man's /129/ money (shirinkame), or another warrantor, then he is made responsible. But the warrantor refuses to pay the pshaymana. He would say that he only guaranteed that the animal was not stolen, but did

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1. For example, yamandatpa or yamaldatpa in horses is recognized in a day.

2. For example, glanders or farcy (manka), or lameness.

431 not guarantee its quality. The bii requires the warrantor to find the
seller, but does not sentence him to pay the pshaymana. If the seller
432 is not found the case remains without further result.

Formerly it was possible to renounce a purchase or sale which was already completed, on the ground that it was bought for too much, or sold too cheaply. There is even a proverb: "The sale of a horse can be broken off for a month, and the sale of a camel, in the course of a year" (at saudasy ayinda kaytady, tyuya saudasy yilinda kaytady). This is never done now. If the buyer or seller claims he was deceived in the sale of an animal or other object, saying that they convinced him falsely of the expensiveness of the object, its newness, of the general pennilessness of the bazaar, etc. the sale is not broken off, because they do not believe the claimant, and feel that he is simply renouncing the sale (aynydy).

Among the Kirgiz, an agreement is made on the period of time within which an animal can be returned, in case defects are discovered in it. If such an agreement was not made, it is not customary to return the animal. A declaration saying the animal was too dear, although without defects, is also not accepted among the Kirgiz.

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426 When borrowing on credit (karz beresek) the presence of witnesses and guarantors is obligatory. In general, they try to have witnesses.

If the defendant denies the existence of a debt, then an oath is required on general grounds, as in cases of crime. But a debt (1) is exacted without a fine. The biilyk and the court costs are required from the debtor.

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1. The requirement of percentages (usum, payda, idzhara) is not obligatory. Credit is given with interest and without it. According to the communication of Abulfaiza of the Chimkent uyezd, honorable /130/ Kazakhs take 20% a year, called deduazde, i. e., 12 for 10. Bad persons take 20 kopeks a month for one tillia /worth 3-4 rubles/. According to a report from the Perovsk uyezd, Kazakhs take 20 kopeks a month for a ruble, or else nothing. Among the Kirgiz, 20 kopeks a month interest (tuam) is paid for 4 rubles.

/130/ When livestock are taken on credit for the purpose of selling them, animals of the same breed are given in the repayment. If they were females, females are returned after a year with their offspring or without, sometimes with the addition, in place of the offspring, of other animals or money, depending on the circumstances.

Vouchers of debts are entering into usage more and more. Usually they indicate the sum of the debt with the interest based on the period of time of repayment. When part of the debt is paid, this is noted in the voucher.

If a person stands in debt to another according to a voucher, money is exacted from him even though he does not recognise the claim as valid. But if a claim is made without a voucher and the defendant does not admit it, a personal oath is required from him. If the defendant demonstrates that he had actually been in debt to the plaintiff, but had paid him the money, then an oath is required from the plaintiff personally, who swears only if the defendant presents to the court the entire sum being claimed.

The leaving of things as security (geru, shargy) is unknown on the steppe. (1) But they do mortgage winter camps with the buildings on them. This is done by people who owe money, but do not have any livestock. A winter camp worth 15-20 tillias is mortgaged for 8-10 tillias, for 1 or 1 1/2 years depending on the agreement. If they have mortgaged for half a year, it is expected (kutadi) to be paid off in a year. If they have mortgaged for one year, they wait for two years. After this term they demand that the mortgaged property be sold or given up to the person who has taken it as security. An evaluation is made and an extra sum is returned. (Torgai).

/131/ The value of domestic animals according to customary law. 000
(Table follows).

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1. In cities, pawning /zalog/ among Kazakhs is considered as one of the forms of an amanat.

/131/ The value of domestic animals according to customary law

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/132-133/

Names of livestock	Age	Names		Value in money or in terms of other livestock					Notes
		Males	Females	According to Karamulla, Perovsk uyezd	According to Umurbak Auliye-Ata uyezd		Other reports	According to the Kirgiz Kurpetai Douletkulov, Auliye-Ata uyezd.	
Camel, tyuya	1	bota		~10 rubles	1 baytal	10 rubles		1 tay	
	2	taylak		15-20 rubles	1 bisti at, with a small amount of money added	15 rubles		1 yilky	
	3	kunanatan	konadzhin	25 rubles	1 bisti, 1 tay	20 rubles	Bii Sultan reports 40 rubles for Chimkent uyezd; Tozgai reports that it was formerly 40 rubles. The books of the biis of the Perovsk uyezd have 40 rubles.	2 yilky	The time of mounting and castration is the 4th year, when they go up to 432 lbs. A mounting Bactrian camel is called bura, a dromedary - alek. A four year old male is equivalent to a three year old female. (Auliye-Ata uyezd). A five year old male is equivalent to a four year old female. The value of a camel begins to decrease at the age of 13-14 years.
	4	dunanatan	dunadzhin	30-35 rubles	1 bisti, 1 kunan	25 rubles		3 yilky	
	5	bisti atan	bisti ingen	30-35 rubles	2 bisti	30 rubles		3 yilky 25-30 rubles, depending on the bazaar. Earlier it was more expensive.	
Saddle horse, at Herd horse, dzhylky	1	kulun, ak	zimye dzhabagy	4 rubles	1 koy, 1 serkesh	4 rubles		1 koy	
	2	tay		8-10 rubles	2 koy, 1 kozy, or 2 koy, 1 serkesh	8 rubles		2 koy	
	3	kunan	kunadzhin baytal	16-18 rubles	3 koy	10 rubles		7 rubles	The time of mounting and castration is the 3rd year. The mounting male is aygir. The Kirgiz in place of kunan and dunan also say bishti, and in place of bisti-ani, they say asi. A six year old animal is called yekeasti, a seven year old is called ushasi, etc. The price of a horse decreases from the age of 10-11 years.
	4	dunan	dunadzhin-baytal	16-18 rubles	4 koy	13 rubles	Stallions and mares 20 rubles, according to the biis' books of the Perovsk uyezd	8 rubles	
	5	bisti at	bisti baytal	20 rubles	5 koy	15 rubles		9 rubles (now 12 rubles)	

/134-135/

4:Grodekov--116a E-5 (ca 1885) 1889 RQ2 Kazak RQ2

4:Grodekov--116b E-5 (ca 1885) 1889 RQ2 Kazak RQ2

Names of livestock	Age	Names		Value in money or in terms of other livestock				Notes
		Males	Females	According to Karpmulla, Perovsk uyezd	According to Umurbek Auliye-Ata uyezd	Other reports	According to the Kirgiz Kurpetai Douletkulov, Auliye-Ata uyezd.	
cow, bull siir, ukus	1	buzau. among the Kirgiz: muzak		3 rubles	1 buydak 2 rubles		2 rubles	
	2	tana. among the Kirgiz: tay turpak		5 rubles	1 koy, 1 serkesh 4 rubles		3 rubles	The time of mounting is in the second and third year. A mounting male is buka.
	3	kunanukus or naupash	kunansiir	8 rubles	2 koy, 1 serkesh 8 rubles		4 rubles	
	4	dunanukus	dunansiir	12 rubles	4 koy 10 rubles		5 rubles	
	5	bisti ukus (azi)	bistisiir	20 rubles	5 koy 15 rubles	20 rubles, according to the biis' books of the Perovsk uyezd.	7 rubles (now 9 rubles)	The price decreases from the age of 8-9 years.
Sheep, koy	up to 3 months	kosy		1 ruble	1 1/2 rubles		1 ruble. If 1 ruble is borrowed during the summer, 1 kosy is given back in the autumn.	The time of mounting is 1 1/2 years. A male is koshkar.

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/136-137/

Name of livestock	Names			Value in money or in terms of other livestock				Notes
	Age	Males	Females	According to Karamulla, Perovsk uyezd	According to Umurbek Auliye-Ata uyezd		Other reports	
sheep, koy	From the 4th month, when shearing koyas	tokty		2 rubles	2 ulak			
	From 8 months	buydak		2 1/2 - 3 rubles		2 1/2 - 3 rubles		
	2 years	isek	tusak	3 rubles	tusaks 1 buydak, 1 isek.			
	3	kunankoy		3 1/4 - 4 rubles	3 kozy	4 rubles		
			kunan saulyk	3 rubles				
	4	dunan koy		4 - 4 1/2 rubles	3 kozy	5 rubles		
			dunan saulyk	3 1/2 - 4 rubles				
	5	bisti koy		4 rubles	3-4 kozy	6 rubles		
			bisti saulyk	3 1/2 - 4 rubles				After 5 years the price decreases.
Goat, eshke,	1	ulak		60 kopeks	-	40 kopeks	1 ruble.	
	2	shebish	tushe	1 ruble, 50 kopeks	-	1 ruble, 40 kopeks		
	3	kunan serke	kunanichke	2 rubles	-	2 rubles		
	4	dunan serke	dunanichke	2 1/2 - 3 rubles	-	3 rubles		
	5	bisti serke	bisti ichke	2 rubles	-	4 rubles		
Donkey, isek istek	1	gure		2rubles				The time of mounting is in the third year. The male is angi, the female is mashi. After the age of 10, the price begins to decrease.
	2	taylak		4 rubles				
	3	Kunanisek		5 rubles				
	4	dunanisek		6-7 rubles				

Footnote: The bis exact the payment of the prices indicated when the actual bazaar price of a missing horse is unknown, or when the obligations are stated in livestock, not in money. Variations are permitted from these average prices. A pregnant animal is considered more expensive.

489 /138/ Drivers (kerekesh tyuyekesh) are dependent upon caravan heads (karavanbashis) /keruanbasy/. The latter are of two kinds: 1) Well known (bel'gili) and influential (ulkun) persons, living in cities, where they give the merchants guarantees of the scrupulousness of the drivers; 2) persons who are less influential (kshi, ksi) who are placed first at the head of the caravans, and receive the invoices from them. In addition to these appointed karavanbashis, the leaders of the caravans are usually also the best people in general among the drivers.

The drivers can transfer their licenses /bilet/ to the leader of the caravan, even though each has his own camels and a special cargo.

The karavanbashis go in advance.

The custom among the urban karavanbashis to help the drivers out with favors (yagalsyb salu) until they find work, also exists among the Kazakhs. (Torgai and Umurbek).

Merchants can send their cargo without the use of karavanbashis, by drivers who have guarantors. Before sending the cargo, the merchants and the drivers, or karavanbashi in their place, exchange written bonds on the quantity of the cargo, the price of the shipping, and the time of delivery.

The karavanbashis cannot abolish the low wage established for one of the drivers, to the detriment of another.

The karavanbash chooses the time and place for halts and spending the night. He settles arguments between drivers on the road. He forces them to pay debts and imposes fines for stealing. Occasionally heavy corporeal punishment is arranged, which is administered standing, not lying down, and for this there can be no complaint. Umurbek admits even that if there is disagreement between the karavanbash and the collective opinion of the drivers he must be obeyed, although in such cases it is difficult for him to get his own way.

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685 According to the old customary law, the drivers had to pay damages even without a preliminary agreement, on the basis of the rules of acceptance for safe-keeping.[1] According to the new customary law those who are not obligated by signature, the affixing of a seal and stamp /tamga/ do not pay. The exhaustion /139/ of the camels and their falling down is not taken into consideration by the sender of the cargo. The losses are born by the driver. He changes the tired camels for fresh ones, or buys others, changes the loads of the fallen animals onto other camels, etc.

According to Torgai and Umurbek, a driver is not responsible to

[1] [Cf. cat. 116, p.109 --A]

the owner of a camel, when he has rented it for money (kere) from an outsider, and it falls, for some reason or other than its load being too heavy. But he is responsible for a camel which was taken for use without pay. However, they rarely pay in full (tutas), for the bii takes into consideration the fact that the camel was given on the basis of acquaintanceship, and arranges an agreement for 1/2, 1/4 or one-eighth the value of the animal. The demand in court for the full value of the camel would be a manifest rupture of the conditions stated above. 489 672 685

If a driver loaded a greater weight on a camel than that permitted by the owner of the fallen animal, for example 648 lbs. instead of 576 lbs. (1) the value of the fallen camel is divided into as many parts as there were pounds in the load, and the driver is required to pay as many parts as there were extra pounds, in the given example, two parts.

1. Every camel has a known lifting capacity. Some carry only up to 432 lbs., others up to 648 and even to 720 lbs. The average weight without straining is about 500 lbs.

The owner of a spring and a well can refuse to give a caravan a place for a halt and water, because of its inadequacy for his own needs, and for other reasons. It is impossible to complain about this in court. But if an owner with extra space does not allow a caravan to come in in winter during bitter cold, and people or livestock freeze as a result, customary law asks wergeld for the people and the payment of the value of the livestock. 489 [423]

Now drivers are not willingly permitted to stop near a village, for a loss may occur in the caravan for which the drivers will blame the nearest village. [672]

In case of a complaint in court concerning a loss taking place between two villages, the biis make an inspection of the place and /140/ measure the distance of each neighboring village from the place of the loss by means of a rope. Then the village is accused of the theft, which is shown to be closest ((Torgai). Accordi other sources, the biis do not measure the distance but ac

llage
h is considered less dependable. (Report of the chief of the
kent uyezd, the biis Sagyndykov and Sultan Kanaev and other
ns of the Chimkent and Kurama uyezds).

here are no drivers among the Kirgiz, since the Auliye-Ata
z have few camels.

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4:Grodekov--119 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

/141/ CHAPTER IX.

673 Crimes. - Thievery. - Baranta. - The salavat and limitations - Syuyunchi.

There is no word for "crime" in the Kazakh language. Dzhaman is means evil deed. That all crimes are no other than evil deeds is, of course, only in the eyes of those injured. When the latter speak of violence (zorlyk) and torture (dzhabr) the transgressors of their interests boast of their own heroism (batyrlyk).

The word guna (sin, wrong) does not fit our concept of crime. In the epic of Guruly beloved by the Kazakhs, among other things, Avaz-khan is called gunakar because he dripped a bowl. He is obliged to shoot a certain number of ducks because of this.

The people distinguish a bad act from a sin. Evil done to the detriment of religious rituals and certain forms of incest are a sin. Sin is considered more serious than crime, but according to the concepts of the majority, murder is considered more criminal than a minor sin.

The offender who is subjected to punishment is called aybdi, aybdar. The word "transgressor, criminal" is translated most closely into Kazakh by the word ury, thief.

673 695 The view of the customary law toward crime is extremely simple. Criminal acts which have been under examination or which continue, do not exist, when there is no plaintiff, or when the plaintiff retracts his suit. Therefore in all suits without exception a reconciliation is possible and the affair can be broken off by the plaintiff. Crimes which are known about by the aksakals, biis and the entire people, but /142/ on which no plaintiff declares himself(1) are not punished. It is obvious, that the judgments are governed not by a feeling of justice, nor by a religious feeling, but a desire

bring the sides to agreement and avoid civil war, also in part the danger of injuring weak clans, which might join forces ainst the strong ones, and finally by unwillingness to destroy the ndations of family life, the clan principle, and those few customs d rules of nomadic life (zang, adat, rasm) which have been worked t over time and under which the people have lived well.

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(1) In other words, an injury to people without a clan, or an injury to people of a clan of small numbers.

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Folk custom not only permits but also obliges the persons who have suffered to avenge the crimes committed against them. The avenger is usually the person who has suffered, but a part or even the whole clan has a right to take part in the revenge. The entire clan considers itself obligated to avenge a case of the secret kidnapping of a girl by a Kazakh of another clan, or the driving away of a considerable number of livestock, which may belong to only one person, but one who is honored by his kinsmen. Also specific insults not only of an honored member, but of any Kazakh, which are made by a mob, call for armed defense and the resentment of the entire people.

The limit of the revenge is considered to be doing harm to the adversary on an equal level to the harm suffered from him. Then the hostile lineages or clans already take part in pacifving their members. But if the avenger does not cease to wreak damage on his adversary, he is subjected to fines of an atton or higher, and in extreme cases to corporeal punishment on the part of his kinsmen. The fines go for the use of the person suffering from superfluous revenge.

Peaceful agreements are permissable in every offense and crime. The fines in such cases (outside of court) go to the use of the person who suffered, or else, when they are considerable, they are divided among the closest kinsmen of the receiver.

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Although custom does have the concept of more /143/ serious and less serious crimes, it does not divide them into criminal and civil crimes.

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A crime which is committed with premeditated intent increases the blame. The commission of a crime with provocation, especially if it is called forth by the sufferer, lightens the blame. Circumstances which lighten the offense are: the thoughtlessness of the transgressor, or the honor and respect he enjoyed before the crime was committed. The commission of a crime in the steppe in an open place by day lessens the offense. A crime committed in a tent at night increases the offense. Poverty does not lighten the guilt. It does not excuse thievery, for example, for the clan is held responsible. A clan which has not helped a poor man, pays all claims against him three times,

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ne compelling him to reform, and forcing him to make prom-
his oath. (1) The commission of a crime in a state of drunken-

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After the third time he is driven out. A poor man
nd a person without a clan gives up his daughter in place
f money, and pays off the sum required of him from(the

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685 kalym he receives for her. But if he also has no daughter, he enters into the service of the plaintiff.

672 ness lightens the blame, and in the opinion of some, even frees the offender from a fine, and he is only obligated to pay for the damages.

Official persons are not punished more severely than private persons for a crime.

Crimes committed for reasons beyond the control of the person's will (illness, temporary insanity, etc.), do not bring punishment upon the persons committing them. In such cases the kinsmen are held responsible as not having watched over the activities of their sick fellow members and not having protected the sufferers from danger. Those who are insane from birth and deafmutes are not punished for crimes committed and their kinsmen are not held responsible for them. Offenders who are under age are not punished. Their parents and close relatives are held responsible for them. Husbands are responsible for the crimes of their wives, but the wives are not responsible for their husbands. The successors of deceased criminals are held responsible in property for their crimes. /144/ In general, the responsibility in property for crimes extends to the seventh degree of kinship inclusively.

685 In Makovetskii (Pt. I p. 81) we find that punishment is decreased when a theft is committed in a strange volost. Certain
672 biis of the Syr-Darya oblast disagree with this. They maintain that suits for theft should be judged with equal strictness, whether they are committed in an outside volost or in one's own, against the defenseless (for example, from children), or against the strong. (1)

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1. Aleksandrov reports that the Kazakhs of the Kazalinsk uyezd steal livestock primarily from other clans and uyezds. The people are indulgent about this, considering it something which goes with youth, although they sometimes are reproachful about it in words.

Careless actions which result in damage are judged as crimes.
thy persons compensate for the damage with property , or for
caused to the health they pay wergeld in the amount established
stom. These cases are called angsyzdan, and the people regard
more indulgently than they do cases committed for revenge or
other aims.

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for other aims.

Accomplices (sirek) of a crime are subjected to punishment, usually in equal amount, although differences are allowed according to the extent of blame (Kunakbai). The plaintiff can, however, in the absence of the accomplices of the crime, exact a penalty from the person present, obligating himself not to make any further suit (the biis' books of the Perovsk uyezd). (2)

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> 2. It has now come into custom in the Perovsk uyezd to revenge oneself on one's personal enemies in the following fashion. If strong evidence exists against the defendant, the plaintiff names one of his personal enemies as an accomplice of the defendant, causing him unpleasantness and trouble about his oath.

For the ringleaders (bashi or urybasy (3), i. e., those who first began to carry out the idea, punishment is not increased. (4)

> 3. According to bii Sultan, the word dzhortuulbasy, head of a gang, has not been used since the time the wars (yaugerchilik) stopped.

> 4. It is said that the person who first committed robbery, giving rise to a long baranta, pays toguzy, while the others, who are guilty of taking strange property, are sentenced to muynyna kosak kutine terkeu (cf. Chapter XII).[1]

According to another opinion, the ringleader is usually called into court. He pays the entire penalty, and can then /145/ split it up among his accomplices. Now they interrogate the ringleader who is called into court about his accomplices as well, in order to call in all of them. If they do not find all of them, they penalize those who are found, requiring them to split it up with the rest and recording this obligation into the report of the judgment. The distribution of the

ng the defendants is left to them. If they cannot come to an
t, the bii apportions the payment of the value of what has
en, in accordance with how much each person took for him-
the fine is divided equally.

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685 The person under whose instigation and advice the theft was made, pays a fine, after which the thief returns the object stolen without a fine (Perovsk uyezd). According to bii Sultan, instigation and calumny is a sin which God never forgives (kudanyng kechpes gunasy). There are now many instigators (azgrushi) and tell-tales (suztasushi). The biis do not believe them. In confirming the proverb entered in Makovetskii: "He who ordered the beating is not punished, he who did the beating is punished" (ur degenge zor kel'mes, urganga zor keler) bii Sultan Kanaev says that the instigator escapes punishment because he will not acknowledge his instigation, and that even though the instigation can be proved, in general it is better to impose the punishment on the actual criminal. E. A. Aleksandrov also reports that the instigators and those assisting the crime are not recognized as guilty by custom.

Those who conceal crimes and transgressors, or objects obtained by crime are called to responsibility equally with the criminals themselves. The receivers of persons under suspicion are called to account like thieves. Unconscious concealment is not persecuted. Not giving up a thief, even though he be one's own son or father, is considered being his accomplice. The person who saw the crime but did not speak of it in the inquiry is also considered an accomplice (Perovsk uyezd). According to Kunakbai of the Auliye-Ata uyezd, the person who conceals property pays nothing, and if he was sentenced to pay an atton, for example, he can demand its return from the thieves. The person who conceals /146/ the thief himself does not pay. "A reprimand of him would be useless," added the bii.

Connivers and the other persons implicated are not subjected to any penalty, but they do not escape the inquiry and a reprimand (Perovsk uyezd). They are called kumekshi. The kumekshi is not a thief, but is not clean of thievery (kumekshi ury imes urydan kuru imes) as bii Sultan Kanaev expressed it.

673 The number of acts which are not considered reprehensible, or which are not prosecuted by customary law even though reprehensible, is considerable among the Kazakhs. (1)

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1. In Makovetskii, Pt. I, p. 60 it says: The comparatively ow level of culture of the Kazakhs not only explains their general iew of criminal activity, but also their attitude to many cts which are prosecuted among civilized societies, and hich are considered fully lawful among the Kazakhs.

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Without even speaking of the many police infringements of the law, of which the Kazakhs have no concept, it is impossible not to mention here their attitudes to such acts as abortion, putting a newborn child to death, forsaking a man in danger, swindling and taking the law into their own hands. These are regarded either as entirely unreprehensible acts or else, in the case of swindling, as acts serving as the basis for civil suits. Taking the law into their own hands in the form of baranta even constitutes a kind of heroic deed.

Among the acts which are not considered reprehensible are 1) Abuse and every sort of verbal insult 2) light blows;(2) 3) theft among

2. The sufferer of the blows considers himself satisfied if he can boast that he hit his adversary, even if only once.

kinsmen; 4) immoral acts, committed with the consent of both sides; 5) taking the law into their own hands; 6) abuse of power; 7) all crimes, committed against the defenseless 8) all crimes, committed against members of other tribes. (3)

3. When asked about the proverb: "the property of the unfaithful is allowed (to be taken), their daughters are allowed (to be made concubines), and their blood is allowed (to be spilled)" (din sizding maly alal, kyzy alal, kany alal), bii Sultan Kanaev began to explain the word unfaithful - as someone who does not pray, does not fast, etc. - but then added: "if the padishah gives the order to make war (padsha buyursa chaubal dib), but it is not permitted in a stealing manner (urlyk pen alal imes)."

We turn now to the listing of several misdemeanors which are recognized at the present time as deserving of reprimand, reproof and even of a fine, but for which there are rarely suits in court, since the plaintiff usually has great difficulty in getting a fine to be imposed./147/ (Table follows).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai Auliye Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov	Bii Sazabai Kurama uyezd
Instigation to fighting and murder (sukanchilik)	Rebuke (1) of the aksakal and forcing to repent.		Not punished	Formerly the whip. (durra); Now a fine of 3 rubles.

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(1) The reason why Sultan Daulet Bushaev imposes a rebuke, etc., and the biis of the Auliye-Ata uyezd do not, is that the former represents the patriarchal point of view, and the latter the present practice. In the words of Kunakbai, nowadays a rebuke, etc., does not lead to anything. (Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai Auliye Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov	Bii Kurama uyezd
Repetition of the same misdemeanor.	Corporal punishment and shaming.		Reprimand of the bii.	Forfeiture of trust, denouncement as a mutakhan (shameless one) and banishment.
Noise and disturbance of nocturnal peace.	Rebuke or corporeal punishment.		Not punished.	It is called tentek, dzhindy. It is not punished.
False alarm, crying attan (to horse!).	Compensation for damages incurred.		Compensation for damages incurred.	Called maskharabaz. Scolded but not punished.
The same, if a woman miscarries a child from fright. /148/	From 3 to 4 camels to one-half wergeld.		Not punished. But if woman is influential 100 rubles fine.	The payment of the appropriate wergeld.
Fast riding in village, around village, or approaching tent at a gallop.	Rebuke.		Not punished.	A scolding. The offender is called akhmak.

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Digging holes without warning signs, or destroying these.	Rebuke and medical treatment of those hurt.		Not punished.	Warning that if someone is hurt, the digger will pay.
Slander, false denunciation. (ţukhanchilik	Forfeiture of trust (zhenimsizdik). sizdik).	Not punished.	Not punished.	Formerly a whipping. (durra). Now a 3 ruble fine. ruble fine.
Not giving help when seeing theft or brigandage.	Reprimand		Not punished.	Not punished.
Not reporting the commission of a crime.		Not punished.		

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Not giving help in danger, as a result of which a person dies.		Not punished	Not punished.	They suspect murder and impose an oath.
Not helping one's own in a time of general uproar or /149/ harming one's own.	2 or 3 nines.			He is considered a traitor (ala); In time of upheaval he is killed /149/ (chaub kitedi).
Malicious luring into danger, resulting in death, e. g., from beasts.		Can demand a partial wergeld.		Full wergeld.

(Table continues).

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai Kurama uyezd.
Not giving kunakasy.		Not punished.	Not punished.	In case of death, wergeld is paid for a person, and the value for a horse.
Affront and insult of kinsmen.	Corporeal punishment, depending on the desire of the kinsman.	Affronts and light blows administered to kinsmen, and strangers, even tiuri, is not punished.		They are pacified and warned against repetition.
False witness.	Forfeiture of trust and the remuneration for damages.	Not punished.	Not punished.	A fine of 3 rubles.

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai Kurama uyezd.
False oath.	Punishment in future life and remuneration of damages.	Not punished.	Not punished.	Punishment in future life. Same report from Kazalinsk uyezd. Bii Sultan, of the Chimkent uyezd reports that the guilty party answers in /150/ the future life. He is called muttekh. They spit on him at the end of the oath ritual. His words are no longer believed (suzi bi igtibar) and he is not chosen to be one of the oath takers.
Cheating and deceit of any kind.		In the opinion of Kunakbai and many others, it is not punished. They only repay damages.		

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai Kurama uyezd.
Unjust judgment of an affair by a bii.	Not punished.		Not punished.	
The acceptance of gifts by a bii who has justly (tene) decided a lawsuit.	Not punished.	------------------	------------------	
The extortion of gifts by a bii.		He loses respect (beti kara).		
/151/ A fight in which a horse is wounded.	Atbastagan toguz, or, according to Mikebai, of the Perovsk uyezd, atton, but if the horse dies, the value is paid.			If the horse dies of the wounds, it is paid for, otherwise not.

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Unjust blows (1)	Atton.	Not punished.	Not punished.	A fine of 3 rubles.
Blows from which death resulted.	Full wergeld	In the opinion of many others, full wergeld. (In practice it is not observed, according to reports from the Perovsk and Auliye-Ata uyezds.)		
Blows suffered by a strange woman, resulting in miscarriage.				According to Torgai, wergeld is immediately (tokhtausiz) required for miscarriage without an oath as to whether it took place with or without blows. (Table continues).

1. Among the Kirgiz no suit is entered for abuse and blows between equals. For abuse of an official person, the bii makes a reprimand and sentences a beating, while for blows borne by a superior, he requires sheep to be slaughtered, a coat to be brought and peace to be made (el kyldyrady). For a wound to an equal, the bii requires a sheep to be slaughtered, a coat to be brought and peace to be made. For a wound to a thief (uruny bashiny yarsa) no suit is brought (reported by bii Daniyar).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Blows administered to a husband /152/ or another, because of which a woman miscarries.				According to Torgai, if the /152/ guilty party does not present the oath of two persons that the miscarriage was the result not of fright but of something else, he must pay wergeld according to the miscarriage. The choice of the side which must swear can also be given to the plaintiff.
Threat of murder.		Not punished, in the opinion of many. According to bii Sultan, an admonition is made: Stop, leave these ways (tasta, bu filingnan kait)!		A fine of 25 rubles.

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Petrovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Attempt to murder	Three nines (tyuya-at-siir-bastagan toguz).	According to bii Sultan, "ayb for the knife", i.e., an attempt to murder (pshak ayby) costs 1-2 nines.		
/153/ Attempt at theft or brigandage.	Atton	In the opinion of Uymaut and others of the Chimkent uyezd, it is not punished. Sazabai agrees. According to Umurbek and others, there is pardon or a fine no greater than an atton.		
Fire resulting from carelessness.	Payment of damages.			Payment of damages (tuleuin beredi).
Setting a fire maliciously.	Payment of damages, with addition of fine or prison.			Payment of damages with fine of 50 rubles. (Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Contributing to suicide.		Not punished. But can demand partial wergeld.	Not punished.	Full wergeld.

If a violation of the rules of morality is punished, it is punished primarily by domestic measures, as is evident from the following list.

Misdemeanors	Punishments and fines imposed for them		
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunkabai & Umurbek, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Torgai Dauletkulov.
Lewd behavior	Rebuke of aksakal, admonition (taufik) and forced repentance (tauba).		

(Table continues).

Misdemeanors	Punishments and fines imposed for them			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunkabai & Umurbek, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Torgai.
/154/ Turning this behavior into a profession.	Order to husband or relatives for corporeal punishment and supervision.			
Adultery with a married woman, proven as only one visit of the lover.	Atton.	Not punished.	Not punished.	Formerly 1 nine (1)
Adultery discovered in flagranti.	One nine.	Up to 1 nine	20-30 rubles.	
The same with a fight resulting in miscarriage.	Tyuya bastagan nine.		50-100 rubles. for miscarriage.	

(Table continues).

1. Torgai says that he posed a question to the biis (Umurbek and others) of the Auliye-Ata uyezd: "You know better than I, tell me: khatynyng amining ayby bar ma?" They answered that no fine is imposed for adultery. He answered: "You have eaten dirt! In earlier times they imposed one nine."

Misdemeanors	Punishments and fines imposed for them			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunkabai & Umurbek, Auliy-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Torgai.
The same with a girl.	3 nines.	Kunakbai: the corruption of a girl with her consent even though she is betrothed, and regardless of age, is not punished.	There is binding, beating and 20-30 rubles are exacted.	From 1 to 3 nines. Formerly 3 nines.

Note. If the girl was betrothed the fine goes to the benefit of the groom. If the groom /155/ renounces the bride, the fine goes to her father, who gives the groom another bride. If the girl was not betrothed, the betrothal of the guilty man to her relieves him of the fine.

The rape of a woman in general depending on the circumstances of the case.	From 2 attons to atbastagan toguz.	From 1 atton to 1 nine.	From 5-30 rubles	If she is a girl, he must marry her.

(Table continues).

Misdemeanors	Punishments and fines imposed for them			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunkabai & Umurbek, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Torgai.
Incest	Corporeal punishment and banishment from the village, after a public reprimand.		Death from the hands of all the people. No case had ever taken place.	
The same, by force.	The same, with humiliation.			
A sin of sodomy.	From 3-5 camels.		Not punished.	A coat and asking for forgiveness, with the slaughter of an animal.
/156/ Copulation with livestock.	Corporeal punishment and humiliation.	Not punished.	There are no male mules among the Kirgiz.	Not punished. No case of it had occurred.
Procuring.	Atton.		Not punished.	
Pimping of a mullah.	Forfeiture of clothes, all property, and banishment from the village.		The guilty man flees, abandoning everything.	

681 Reimbursement of damages is required for every kind of infliction of loss, damage to objects, etc., if it took place as a result of carelessness. For wounds and similar bodily injuries, the medical treatment and the support of the injured person is at the expense of the guilty person. If evil intent is observed in this, a fine is imposed to the value of the damages, in addition to the damages.

We append examples:

672 1) Clumsy medical treatment. A doctor (taub) who heals clumsily is suspected of evil intention, but he is not called to account. Only the expenses for the funeral (as su) of a patient who died can be referred to his account. He answers for it in the future life (akhiratda zamin).

2) Being bitten by vicious animals. If the owner of an animal did not know his qualities, he does not pay the expenses for the healing of the injured person, and for the damage suffered (bite, tisteb algan, dislocation, mirtildy, death), for "the animal does not know what he is doing." However the animal itself may be adjudged to the sufferer. But if the owner knew that his animal was dangerous to human beings, (adam khur) he should have either kept it tied up or slaughtered it, or sold it at a distant bazaar. For not having taken these precautionary measures, not having kept an eye on the animal known to be vicious, he pays for the damage caused by it /157/ (Torgai and others), or a full wergeld to the report of Baymet Sagyndykov.

If a mounting camel or stallion bites or kills someone, the animal itself is given to the person who has suffered. Wergeld is not exacted.

If a camel walking about untethered bites someone, he is surrendered in place of wergeld. But if a person rides into a village on a camel and it bites someone, the rider pays a full wergeld. (1)

1. The owners are not held responsible if the animals bite each other. Only children arrange a fight between animals (talasteru) and they are not held responsible for damage (Perovsk uyezd).

685 3) Injury to strange animals, cutting out the tongue, disfiguring their appearance, is punishable by fine, and if the owner of the animal consents, by the buying of the animal from the owner for its original price. If the injury resulted in the death of the animal, its value is paid (Perovsk uyezd).

Animals are subjected to having their tails cut off for cropping grass from strange fields. But the owner of such an animal has the right to start a suit for disfigurement, in which case he himself pays for the damage from grazing (Kazalinsk uyezd). 672 685

There have been cases in which the owner of the animal with its tail cut off died a natural death during the period of time before the tail grew back. His heirs had the right to demand wergeld from the guilty person, as for murder. (Kazalinsk uyezd).

4) Arson. The person who sets the fire is sued for the total loss, for example, the value of the house or of the material and the wages of the workers, if he cannot clear himself with an oath. He is also required to pay a fine of one-tenth the value of the property. (2) 685

2. In the Chimkent uyezd the fine for setting a winter camp afire, for brigandage and for baranta is equal to wergeld for a man.

Suits concerning arson are investigated strictly (Katta suraydy) and are not settled without oaths, solely by testimony of witnesses. For unpremeditated arson a fine is not imposed, as is the case in all /158/ unpremeditated misdemeanors (yazym), which came, as they say, from God (kuday kykdyrgan).

Fires are permitted, to clear the steppe of the tough grass the previous year, which the livestock do not wish to eat, and also for the fertilization of the land to be ploughed. Such fires are forbidden in ploughed fields, hayfields and around buildings. In the Kurama uyezd, the testimony of four dependable persons is enough for conviction for intentional arson, requiring the payment for the damages and a fine equal to this (tengurtak). For example, for a loss of 400 rubles, the fine is also 400 rubles. Wergeld is paid for persons lost during the fire.

5) No punishment is given for deceit. The property taken by deceit is simply returned.

The following are examples:

a. A gift (syuyunchi) received for the report of false news is returned. They are scolded with the word muttakham (dishonorable), etc.

b. Money demanded in the form of an order by warrant, etc. is returned. Trust is forfeited.

c. There is no suit for denying one's own stamp /tamga/ (Abdrakhman).

d. For the affixing of a strange seal, and for every sort of fraud

685 payment of the losses can be required. The payment for a new receipt and for court costs can be required for assistance in changing a receipt, after which the debtor is freed from the obligations of the original receipt (the books of the biis in the Perovsk uyezd). The Kirgiz bii Daniyar finds that there is no suit for the making out of a false receipt and affixing a strange seal to it.

e. There is no fine for the substitution of something else for what was taken for safekeeping. However the biis hold to the proverb: Whoever behaves treacherously with objects given him for safekeeping will suffer punishment in the future (amanatka khyanat kylgan akhyret dzhaz tartady).

f. The sale of an object of lower quality as something of higher type constitutes deceit, and the bargain is broken off.

/159/ g. If one and the same thing is sold to two different persons, it is adjudged to belong to the one who paid the money for it first and carried out the ritual of shaking hands, with the words: bereke tap ("to good fortune"). The money is returned to the other without a fine.

h. The middle man is not held responsible for arranging a sale of something he knows has been stolen, if he can produce the seller. But if he cannot find the seller he is held responsible before the person who suffered the loss, and pays a fine, for the middle man is considered a guarantor, kefil' (bii Abdrakhman, of the Auliye-Ata uyezd, and Torgai).

i. The conscious buyer of stolen goods must also present the seller, as was stated above.

E. A. Aleksandrov reports from the Kazalinsk uyezd that "a small deceit in trading is investigated. In case deceit is discovered, the dealer is obligated to return the payment received for the article. But if he does not desire to make the return voluntarily, and refuses to take the affair to court, the injured party has a right to take the payment by baranta. A complaint from the sufferer from baranta is not accepted or, when it is examined, it leads to the exaction of a fine from the person who caused the baranta."

Bii Sultan Kanaev cannot remember from his practise any suits concerning acceptance of things for safekeeping. According to him, only losses due to deceit should be required to be paid.

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There are no special words among the Kazakhs to express the concepts of stealing and brigandage. Urlyk is stealing or brigandage, 673 ury is thief, robber and criminal in general, urlamak is to steal, tartyb, almak is to take away, to ransack. Theft accompanied by violence is not judged more severly than simple theft.

Among the Kirgiz, there is more severe prosecution of the theft of a considerable number of objects, for clear robbery and for taking away by force (bii Daniyar).

Robbery accompanied by violence occurs in the following 674 forms among the Kazakhs:

1) The plundering of every kind of traveler: such as Sart merchants and travelers. It usually opens with /160/ a request for nasvay, tobacco, or with a double meaning, for that "which is in the belt."

2) Driving horses out of the herd at night.

3) The latest kind of robbery is asking for a ticket, the presentation of which is ignored, the declaration by the robber that he intends to rob, and frightening by various threats and charges, with the request to give this or that. The aim of these circumlocutions is to discover whether the traveler has any chances of defense or not. However, robbery by force is rarely accompanied by murder.

According to the reports of the biis Sultan and Khalmakhammed, 605 685 it is permissible to rob or to kidnap and not to return the objects gained in the cases below:

1) The father and grandfather can rob from a son and grandson as often as desired, and as much property as desired. It is even possible to sell everything a son has. It is permissible also to sell the son into bondage, i.e., to surrender him into service for a year, and to spend the money received (balanyng uzin kyzmetke satyb zhese kham khallal').

2) A son can rob from his grandfather and father up to three times. The fourth time a fine is imposed.

3) A kinsman can rob another kinsman to the third degree of kinship (first cousins).

4) The dzhien asks his uncles (older and younger brothers of his father) for a gift, and if he does not receive it, he can rob them up to three times. If he steals too much, they take away the superfluous part from him, leaving him 1 or 2 heads of livestock. If he steals a horse which is a racer (bayge at) the uncle can demand its return in exchange for something else. If he steals for the fourth time, they tell him: "You have forfeited the rights of a nephew" (dzhien dikten ketting).

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The wife who leaves her husband in a disagreement should not take anything with her. This would be robbery.

Robbery is permissible between relatives more distant than the third degree, with the obligation of return in so far as possible in the following cases: a) for the payment of kalym. because the increase of descendants is /161/ a laudable affair; b) for the payment of a debt; c) in time of famine; d) for a necessary trip and for the pursuit of thieves. (1)

[626] 1. Sometimes when something is missing in a village they put a bakan (pole to raise the changarak/the hoop in the center of the tent top/ when putting up the tent) up in the middle of the village and ask the thief to place the missing object under the bakan, threatening otherwise to invite the mullah in to discover him. The mullahs have various devices for discovering a thief. They bake a flat cake, blow on it (dem salady), and give everyone a piece, and when the thief swallows his piece, he will choke on it. They put a bladder (kuuk) in the hand of everyone, in turn, and in the thief's hand it swells (kebedi). They blow on a metal pitcher, calling the names of everyone in turn. When the name of the thief is called, the pitcher begins to turn around.

685 Furthermore these same biis permit taking away a horse from a known thief who is setting out to steal, if there is proof of this. They add however, that ayb is paid if the horse is taken away without proof, even though it be from a man banished from the community for stealing or one deprived of good name (muttakham). Taking away game caught by an eagle is not robbery but is taking the "chiralga" gift by force; therefore they require it to be returned without ayb. If the taking of the game were done secretly, then it would be stealing, and ayb would be paid. Finally, it is permissible to steal in return for stealing, i. e., baranta.

E. A. Aleksandrov reports from the words of the honorable Kazakhs, Umbet Galiev and Nurman Sarchinov, of the Kazalinsk uyezd, that stealing from the son and from the father is not permitted. In general such an act results in punishment for the younger persons, and ayb or shaming before the village for the older.

674 Horse stealing is more predominant than stealing of other livestock because horses are easier to arouse (chapchan). It takes

place especially often in the border regions of uyezds, because the 074
search for the animal and the bringing of a suit in a strange uyezd is accompanied by difficulties, and with the solidarity of the biis, volost officials, translators and other persons with their constituents, it often ends unsuccessfully. As a result, on the borders of the uyezds boys and girls stand watch (kuzetedi) over the livestock until dawn. Long spears (nayza) with standards are erected before the tents of rich men to frighten away thieves.

/162/ Professional thieves have accomplices in the neighboring uyezd for the sale and mutual exchange of stolen goods. They steal from their own volost and from a strange volost without discernment, blindly (kuzi sokur ksidey). But there is a proverb among the Kazakhs: "A thief is like a spoon, the people are like the sea. It is easier for the first to perish from stealing, than for the latter to perish from a thief" (uru kasyk el tengiz, ol urluk kylyb uzi kuruydi onyng ushun el kurumaydy).

Since a repetition of robbery is punished more severely by customary law, one who has fallen into stealing sometimes moves to another uyezd where he is not yet known, and in case of another conviction he is punished as though for a first case of stealing.

A thief is often registered in another volost, and in case of a complaint the volost administrator refuses to find the stolen object on the basis that the thief is not subject to him. Meanwhile the administrator of the volost in which the thief is registered is unable to know anything because he is so far away.

The Tiuri of the Chimkent uyezd also command stealing. They [181] consider it shameful for themselves to engage in agriculture.

The tents of thieves stand alone, or in small groups of 3, 4, or 5 tents. In general the more people there are, the safer it is in the steppe.

Stolen property when it is found is confiscated in favor of the 185 owner, even though it may have already passed into strange hands by means of sale or as a gift. The person in whose possession it is found must produce the one from whom he received it, within a certain period of time. Sometimes the bii requires the person who has the stolen property to ride with the plaintiff to that locality where he hopes to find the seller of this property, and show him to the local authorities. If he finds the actual thief there, he demands from him a reimbursement of his losses. If the accused does not carry out the demand to go to the place where he says the thief is, and asserts that

685 he bought the stolen property from a person unknown to him, he himself is considered a thief.

/163/ If the accused cannot indicate the source of the stolen goods or gives confused testimony, he is considered the thief.

If the victim of the theft, without having tracks or a witness,
685 casts suspicion on someone, stating that the suspicious person was
694 around the village where it was committed on the day of the theft,
or else that he was near the stolen objects, then information must be obtained as to where the person under suspicion spent the night, with whom he had the evening meal and whom he met on the day of the theft. If the persons interrogated testify that the person under suspicion did indeed spend the night and sup with them and was nowhere else on that day, or that when they met him he was innocent of theft, then he is cleared of the accusation without an oath.

If the victim of the theft puts a purely verbal suspicion of the theft on someone, it must be learned by questioning outside people, whether the person under suspicion was at home on the day of the theft or in another village. If it is shown that he was at home on that day or in another village, then he is cleared of the false accusation made against him. But if he cannot prove this or is unable to find the people with whom he was staying or those whom he met, in that case he must be considered the thief and be obligated to pay for the stolen property.

If suspicion is strengthened by the vague and evasive answers of the suspect, then he must swear for the quantity of the stolen property.

If a theft is made from someone and he, without being able to find the stolen property anywhere, presents an accusation of a certain person, saying that a guest of the accused made the theft, in such a case it must be learned when the guest departed, who saw him on the road, and where he stopped. If the accused host can show three stopovers of his guest, he is cleared of the accusation. If a person who met the guest, or if his hosts for the stop-overs testify that he /164/ was innocent of theft, then the guest as well as his host are cleared of the accusation without oath. But if the host is unable to give answers to all the questions noted above, and then, when obliged to find that guest within a certain period of time, is unable to do so, then he must answer for it himself.

If the master of the house says that a guest stayed with him and was fed by him, but who it was and where he went is unknown to his host, and that he does not know the direction in which the guest left in the morning, then the victim of the theft declares that he does not believe this, for the master of the house made the theft and sent the stolen goods away with the guest. If the master of the house then declares that he cannot find the guest, an oath is required from his side. 685 694

If during the investigations of the thief, evidences lead to a certain village or tent, their owners must show (izim shygaryb ber), on demand of the plaintiff, where these traces passed out of the village again. Otherwise the aksakals and the people are called as witnesses of the existence of fresh tracks which end in this village or tent, after which the relevant owners are held responsible before the court.

If someone suffers a theft and in following the tracks of the stolen property comes to a village, and the inhabitants declare that the theft was not committed by them and that they know nothing about the tracks, in case the tracks exist in the snow, an oath is required from the victim of the theft. But if there is no snow, the oath is required from the side of those who profess ignorance.

If the object in the suit was taken away not personally by the defendant but by a rider sent by him, and if the defendant disavows it, the rider is held responsible.

When a stolen head of livestock appears by itself accompanied by a loose animal, the decision is deferred, even for a year, to await information as to where the loose animal belongs. If this cannot be learned in the given length of time, then the person on whom suspicion fell earlier is held responsible. If he provides testimony about the stolen animal showing that it is homebred (koltuma), then his side is put to an oath before it is taken away from him. /Inserted page. Picture. Caption: Bii Mikebay of the Perovsk uyezd. Drawing by V. Olivetskii./[1]

/165/ When the stolen animal is confiscated, agreements are often made of the sort that the plaintiff pays half its value to the person from whom it is confiscated, with the understanding that when the thief is found he will pay each of them the value of the animal. 685

If several animals are lost and only one is found with the thief, it is concluded from this that he also stole the others, but a special oath is decreed for them.

When the stolen livestock is being returned, the rule is observed that the animal returned should be of the same quality, sex, age, and in general of the same value as that stolen, otherwise the

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[1] [Not reproduced -- A]

685 thief should pay the owner the difference in money. In this last case, and also when all the stolen livestock is paid for in money, care is taken that the animal should not be underevaluated, for otherwise the owner demands the exaction of an additional payment (tolyktyk) from the bii.

686 An animal recognized at the bazaar is not confiscated. The person who has brought it there must present the man from whom he
694 received it; otherwise, if he declares it to be his own property, they go to the bii (Abdrakhman, Auliye-Ata uyezd).

An animal which is recognized in the possession of an outside person, who did not steal it himself but bought it at the bazaar, is confiscated only if the person recognizing it proves by his personal oath, and the testimony of five (1) witnesses, and the oath of one witness that the recognized animal or other property actually belongs to him. The animal is not confiscated until the decision on the case. If a sheep is recognized in the possession of a man who bought it at a bazaar, neither testimony from witnesses nor a personal oath gives the owner the right to take it away, since the sale of sheep at a bazaar takes place without guarantors and there is no sidzhil' (2) for them ordinarily. (Communicated by Yunusov).

685 /166/ Placing one's brand on a strange animal is considered to be stealing. According to Abdrakhman, this happens rarely. For

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1. According to other information, seven witnesses.

[695] 2. A copy of a decision of judges, kazis and other officials is called sidzhil'. According to this copy, a thing which is recognized by an outsider, who proves by the testimony of witnesses his right to it, is confiscated. A copy of such a judgment is given to the defendant, /166/ so that he can sue the person from whom he bought it for his losses. There is also a sidzhil' in civil suits for money. If an animal is confiscated by sidzhil' a karkara destroys the force of the sidzhil'.

The testimony of several persons, with their signature and seal, with the countersign of official persons is called a karkara. In this testimony it is explained that such and such an animal, with an exact description of it appended, constitutes the homebred property of such and such a person.

placing a brand on a loose animal a fine can be imposed of half the 685 value of the animal. Placing one's brand on an animal with one for safe-keeping, is not considered reprehensible if such a one is returned on the first demand. According to Kyulbaev (of the Kurama uyezd), putting one's brand on a strange animal unnecessarily (bikerge), whether it is a loose animal or one received for safe-keeping, is punishable by a fine of 20 rubles. According to the Kirgiz Daniyar, placing one's brand on a strange animal is considered as clear (zakhir) stealing, and is punished in proportion to the penalties of the assemblies (siez kesimi menen) i. e., for one sheep 4 sheep must be paid and 4 rubles in addition.

The owner of the lost object usually appears before the person 685 suspected of the theft accompanied by two or more outside impartial 627 persons (khalis ksi), exceptionally, only one, and searches (tentedi) him. The outsiders serve as witnesses. If the suspect does not permit himself to be searched (tentkizbese), he is considered to be guilty.

When a thief is caught by the owner of the stolen livestock, he usually gives up or promises to give up everything which was stolen by a certain period of time, often according to a voucher, asking only that no suit be charged for the exaction of the usual fine. The owner may be satisfied by the return of his property and by taking away a horse or a coat, i. e., atton (1) from the thief, as a reward to the captor.

When there are several thieves, the one who is at hand is held 685 responsible. When only the father of the thief is at hand, a suit 672 directed against him is accepted by the biis for trial, on the basis of responsibility by reason of kinship.

/167/ If a thief rode a strange horse when committing the crime, the owner of the horse is a participant in the theft.

If the plaintiff confirms the fact that when the defendant was 685 caught the latter gave him money in order to end the affair, and if later the accused clears himself by an oath, the money in question is ruled to the defendant.

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According to the communication of Sultan Daulet Bushaev, a 697 thief from a distant place, whom it would be difficult to find again,

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1. Sometimes a horse and gun or some other object is taken under this name.

697 is imprisoned at night in a pit which is covered by a grating, and someone sleeps on top of the grating. He is not kept in the tent lest he kill someone, flee, cause a disturbance, and among other things, do wrong to someone. They put horse locks (ksen) on the legs of a thief from a nearby place, passing them through the sidepiece of the tent at night, and pemitting him to walk about in them during the day.

Among the Kirgiz, captured thieves are bound and then subjected to corporal punishment (dzharb kursetedi) until /vpred'do/ the affair is investigated by the bii. Without denying the injustice of puinishment before the judgment of the affair by the bii, Kunakbay (Auliye-Ata uyezd) justifies this custom for those cases where the thief is caught red-handed or was armed with a spear or an ax (aybalta).

If the thief is caught in the act of stealing and refuses to go to the nearest volost official, arguing that he is innocent, or if he attempts to flee, then he is bound. If the thief continues to deny his guilt after that, or to make various claims, he is beaten in order to force confession (chiningdy ayt). The volcst official to whom they take the prisoner asks him such questions as: "Are you a thief? Where did you steal from? (or come from). If you are not a thief, clear yourself and I will let you go free. But if you did steal, I will give you over to the owner of the stolen goods." The thief is transferred into the hands of the owner. The owner of the stolen goods keeps the thief in his tent until the presentation of his suit /168/ in court. The prisoner is kept bound or in general in such a way that he cannot escape (kitpes kylyb baylaydy) his legs are fettered (ksen salady), and also he is beaten, but not much (kub savamaydy). They do not beat or abuse a well-known person(bilimdy ksi). A bii does not accept complaints from the thief for blows, saying: "That is your punishment (dzhaza)". (Communicated by bii Abdurakhman, Auliye-Ata uyezd).

194 If the thief is captured while stealing at night, his captor confines him in the tent and interrogates him: "Why are you stealing?
672 Was it not you who also stole what was lost last year and the years before?" Bound and confused, the thief often confesses, while being beaten, to all these crimes, of which he is completely innocent, and of which they accuse him only in order to frighten him. Later they inform the volost official of his confession and send him the thief himself. The volost official also holds the thief in confinement, interrogates him and notifies his relatives. The best people from among

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his relatives appear and say to the volost official: "Give up this 672 thief to us. We will interrogate him well. If he is guilty of something we will make him pay for it. If he is innocent we will present you with proof" (bul uyyny bzning kolymyzga ber, muny abdan khub suralyk; algan bulsa, maldy alyb berelik, almagan bulsa, almagan iken dib sizdi isenterelik). In agreeing to give up the prisoner, the volost official takes a receipt (tilinen khat) for the fulfillment of the promises mentioned above.

The owner who has already received his property can receive 685 a supplementary atton from the thief. Sometimes the biis and aksakals among the relatives of the thief say: "He is innocent of other thefts (uzge maldan); take atton from him and give him a voucher for the fact that you will not open suit against him for anything lost" (falan vakytda dzhogalgan degen maldy suramaska), or else: "But if you are thinking of opening a suit, give us back the atton you took from us." They never take the atton anymore, however. This custom existed under the Kokandians and khans. In this way, as was explained above, the thief was often released without bringing him to a court examination (Torgai).

/169/ A candid confession does not lighten the punishment. 685 On the contrary, when the bii sees the offender acknowledging the 695 fact of his commission of the crime without shame, he may consider him a hardened ruffian or a professional thief and impose a higher fine because of this, or punishment by whipping. (Mikebai, Perovsk uyezd).

The plaintiff for his part, seeing that the defendant confesses from honesty and straightforwardness (er iken, muynyna, alyb otur, chinin aytty) can resign from the whole suit or part of it (Perovsk uyezd).

When there is a voluntary confession (azamat iken, uzi kelib aytty), with or without a court summons, the punishment can be reduced, and in view of repentence, completely forgiven, but only with the consent of the plaintiff (Auliye-Ata uyezd).

If a defendant denies the fact of his confession at a previous interrogation by a village elder, confirmed by a written act, the biis consider it possible to require a purificatory oath, as with a simple disavowal.

Stealing with house-breaking or without house-breaking, from 685 a trunk and from an open place are punished alike (Torgai). (1) There

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1. According to Makovetskii, Pt. I, p. 81, the easier a theft is, the more shameful it is considered. On this basis

685 the stealing of sheep is more severely prosecuted (sheep are watched less carefully than other livestock), namely, a fine of one toguz is imposed for the theft of one or several sheep, in addition to the return of the stolen animals. It was stated in the Geographic Society's outline for the collection of folk juridical customs (p. 31) that a larger reimbursement was demanded among the Kazakhs for the theft of sheep because a high value was placed on them for their numerous offspring. It will be seen below in the chapter on punishments that this custom does not exist in the Turkestan region.

is no special punishment for damage to a wall, a lock, etc., in the process of stealing. Reimbursement for such damage is included in the fine imposed.

The theft of a fettered animal is punished in the same way as the theft of livestock grazing freely.

681 There is no special exaction for the hiding of traces of a crime. An exception to this is hiding the body in a murder (cf. wergeld).

[683] In Makovetskii's book, Pt. I, p. 79, it is said: "Violence during /170/ theft of property, for example, the infliction of wounds, is regarded as a separate crime and there is special punishment for the theft of the goods and the infliction of wounds." The biis Sultan Kanaev and Khalmahammed find that violence and theft are judged without division. A fine is exacted as for an ordinary theft, and only expenses for the healing of the wounds are added. If there were blows without wounds, then nothing is added to the fine for the theft. The proverb: "You cannot skin two hides from one sheep" (bir koydan eki teri soymaydy) is relevant here, i. e., two punishments are not imposed on one criminal. Only an inexperienced bii can impose two fines (bil'mes bii klady eki ayb).

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683 A criminal who has already been convicted for one and the same crime is punished more strictly. (1) For the second theft they

1. This is the opinion of many, including the Kirgiz Daniyar, and agrees with Zagriazhskii and Samokvasov, but conflicts with the opinion of the Makovetskii collection, Pt. I, p. 65.

require the confiscation of all the property of the thief, with his release on guarantee, or depriving him of liberty. For a third theft he is banished, with the declaration that they refuse to pay and receive wergeld and other exactions for a thief.

receive wergeld and other exactions for a thief.

Secret driving away of livestock is not called baranta, (2) but stealing. Also the word baranta should not necessarily be taken to mean a raid with the purpose of stealing without a special reason for it. For a raid to be able to be called baranta (barymta), it is necessary 1) to make the departure by day and not by night; 2) to have the raid openly announced as baranta; 3) for the raid to be aimed at obtaining satisfaction for some sort of loss, theft, murder, kidnapping of a bride or wife, offense, etc. (3) /171/ Baranta also takes place when the defendant does not permit the requirement of the bii to be exacted from him.

According to bii Kunakbay, baranta does not take place for only one offense, or for the rape of a bride without taking her away, etc., when no losses (chygyn) resulted because of this offense, etc.

2. In the customary laws of the Caucasian mountaineers, p. 366, it is stated: Baranta has several meanings: a) livestock; b) crime, in the sense of ordinary theft, taking away by force, and seizure of a strange object; c) military seizure, driving away or capture of people and livestock; d) punishment, in the sense of stealing and plundering according to the old Russian law, most recently the confiscation of property; e) the seizure of strange property before trial, to ensure the rights of the creditor, also in the case of lack of satisfaction for personal injury, material loss, etc.; f) measures for the assurance of the fulfillment of the court decree, g) the right of the relatives of a murdered man to rustle /"barantovat'"/ the property of the murderer before the carrying out of blood revenge. Finally h) the right of a prince to confiscate property from his subjects.

3. In the report on the revision of the Kazalinsk uyezd (Prikaz po voennonarodnomu upravleniiu Syr-Dar'inskoi oblasti / Order for the military-national administration of the Syr-Darya oblast/ of July 30, 1886) an example is entered from the books /171/ of the extraordinary session: the Kazakh widow Manteke Sundetova complained that the Kazakh Ismailov had taken her daughter by baranta /zabarantoval/ and that she had spent 100 rubles to hire people to pursue the kidnapper, and she asked that the defendant be required to pay 1280 rubles for the defamation.

Baranta is directed not only against the livestock of the adversary himself, but also against the livestock of any of his kinsmen, (1) even if it be his aksakal. In the first case the property taken by baranta is regarded as stisfaction, and in the second case as a pledge that in case of a court examination the stolen goods will be recovered or that satisfaction will be given in general.

A person engaged in baranta chooses the property on which he has a claim, with a small addition for difficulties and losses on the raid. But he is held responsible for extra damages inflicted during this raid, and for an immoderate seizure of property.

Baranta has existed only between various uyezds. Complaints concerning it have been presented in the name of the military governor, who has appointed an extraordinary session among the uyezds.

During the time of the Kazakh khans, baranta was little different from war. Even now baranta is called war (yau buldy). The attack did not pass without atrocities. They placed people in irons and bound them to trees regardless of the participation of the person bound, etc. Among the Kirgiz they bound people and cast them into the water.

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Suits concerning events which took place before a general peace treaty (salavat) between disputing clans are not accepted, or remain /172/ without consequence (baska kaldyrduk), with the exception of affairs concerning matchmaking and wergeld. The conquest of the region by the Russians constituted such a salavat, and even the fullest kind of salavat, for it was forbidden to examine even matters of wergeld and matchmaking pertaining to the Moslem period.

In the conclusion of a salavat they say: "utken uryul kalgan

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1. Compare the customary laws of the Caucasian mountaineers, Section VI, the customary laws of Rustemkhan of the 12th century, 81: "baramta is to be taken from those who are not divided from the clan of the accused"; 49: "A fine is required from anyone who does not allow the baramta on his own account."

salavat", i. e., complaints were mutual and therefore were considered satisfied, and if complaints remained unsatisfied, these were forgiven. They cut an aladzhip[1] /cf. Chapter X/ for the consecration of the ending of old accounts, without appeal, and of full pacification, and now they give vouchers.

A partial salavat is forgiveness before a certain time (mundzhal). Disputes which went on before that time are forgiven (beregini suraymyz arigini suraymaymyz).

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The presentation of a suit, several years (3 years, for example) after an event took place, complicates the examination. Therefore such a suit is settled by a testimonial oath. But if there are no witnesses the suit is not accepted for examination at all (kaldyrady) (the Perovsk and Auliye-Ata uyezds).

In the Kazalinsk uyezd suits are subjected to examination before the death of the defendants and likewise before the death of the plaintiffs. If heirs remain who know of the claim they can revive the affair. An affair which has been ended by salavat[2] cannot be reopened. But if the side which suffered presents a suit through a court after a salavat, the judge must convince himself of the salavat by witnesses. The confirmation of the salavat means a fine of atton for the person bringing suit, which goes to the judge, and the person who brings such a suit lacks the confidence of his kinsmen.

Limitation is recognized only in small crimes which remain undisclosed for not less than five years. But for murders and marital matters there is no limitaion. A groom, who has been absent without sending word, has the right on his return to demand the bride or the return of the kalym. If the former bride has married, a sister or niece is substituted for her. According to Torgai, suits concerning a bride and kalym are accepted for /173/ examination to the third generation, i. e., to the grandchildren. When there is a denial, they swear an oath, as is normal. Other suits are accepted only up to 5 or 6 years. Suits founded on vouchers are accepted up to 10 years, if the defendant could not be found earlier. After 10 years even wergeld is subject to salavat, i. e., limitation. Now a salavat is put down only after 5 or 6 years, with the condition that nothing was known of a murder in this time. Ten years are allowed, however, if something was known of it, but the murderer hid himself. If a thief was caught, released on bail and promised to give satisfaction, but fled, then a suit may be revived for up to 10 years.

[1] [See cat. 116, p. 161--A.]

[2] [Peace treaty between disputing clans; see cat. 116, pp. 153-154--A]

4:Grodekov--155 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

694 Everything which takes place gives way to the salavat in another dominion, for example, in the Kokand dominion, except a suit concerning a bride (yesir dau).

According to a report from the Chimkent uyezd, affairs concerning matchmaking do not have limitation, but all other matters have a ten year limitation, excepting only matters of wergeld (1)

1. The biis at the meeting of the Chimkent and Turkestan uyezds in September 1887 established that "matters are not accepted for attention after a limitation of 10 years, with the exception of affairs concerning brides and wergeld."

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which are examined even after ten years have elapsed since the day of the murder, when the court is presented with only factual proof, but without an oath.

431 Syuyunchi means a gift for news concerning relatives. Syuyunchi may be 1) voluntary, for example, for receiving the news of the birth of a son, daughter (for a daughter they give less), etc., and 2) more or less necessary at the news of the loss of property, finding it, the capture or detection of the thief, etc. A suit for not receiving syuyunchi is accepted by the bii for examination.

The extent of the syuyunchi depends on the services rendered to the person found, and on the value of the property itself. For bringing back a stolen animal about one-twentieth of its value is given, and for confiscating it from the thief by force, one-fifth. For bringing back the thief himself at the same time, the syuyunchi goes up to half the value of the object stolen.

/174/ The syuyunchi paid for finding a camel is 24 rubles or 6 tillias (according to Torgai and Abdurakhman), or 3 tillias for finding a horse, or 2 tillias for finding a cow.

The syuyunchi is called kulaksyuyunchi, if the person who brings the news has only heard that the lost object is found but did not see it himself. Kulaksyuyunchi is not large, being 2 rubles for a camel, 1 ruble for a horse, 1 ruble for a cow, 20 kopeks for a sheep and 10 kopeks for a goat.

The thief who is sentenced to pay a fine, pays also for syuyunchi among the other requirements.

The thief himself cannot receive syuyunchi, even though he also brought back the lost animal. 431

Kinsmen cannot demand syuyunchi.

If someone receives syuyunchi for promising either to find the animal or to detect the thief (muynyna koyib beremen), and after that if he does not succeed in accomplishing the one thing or the other, he returns the syuyunchi received in one and a half times the amount.

The bit aygak (personal witness) who discovers a murder receives one-fifth of the wergeld as a reward. For the discovery of or informing about thieves 4 tillias are given for a horse, and 8 tillias for a camel. The witness is awarded the amount indicated only if he himself, in the presence of the biis, indicates the thieves. In order to confirm the witness's accusation of the person indicated by him as having committed the misdemeanor or crime, the biis sitting in judgment require the accused to choose persons from the side of the witness to take an oath (1) that he has actually indicated the guilty person. But if /175/ the accusation of the person indicated by the witness is not confirmed after the admission for the oath by the persons chosen, the accuser pays back the person from whom he received syuyunchi in an amount double what he received. (Absaliamov, Chimkent uyezd). 431 695

1. The choosing of persons from the witness's side to take the oath takes place in the same order as the selection of persons from the side of the defendant.

/176/ CHAPTER X

The organization of the peoples court by the law of 1867. - The rank and position of the biis. - Arbitration. - The order of selection of cases. - Attorneys. - Witnesses. - Guarantors. - Concrete evidence. - Payment of the bii /biilyk/ . - Losses and expenses. - The organization of the people's court by the law of June 12, 1886. 692

Among the Kazakhs the people's court was organized in the following manner on the basis of the law of 1867.

The people's court is the examination of cases according to folk customs by chosen judges - biis.

The following types of courts were organized: 1) the individual court of the biis, 2) the volost session of biis, and 3) the extraordinary

692 session of biis.

In every volost from 4 to 8 biis were elected both for the judgment of criminal cases, subject to the people's court (1) and for every sort of litigation and suit.

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1. Murder and baranta were considered criminal cases, subject to the people's court.

The Kazakhs were judged by a military court for treason, inciting their fellow tribesmen to oppose the government, attacking the mail and military transports, the murder of Christians and other persons who had expressed the desire to become Christians, and for the murder of officials.

The Kazakhs were tried according to the common criminal laws of the empire for brigandage, stealing, attacking merchant caravans, flight into foreign domains, setting fire, manifest opposition to authorities, the manufacture and transmission of counterfeit money and the stealing of state property.

693 The biis were elected by the people for three years.

Anyone could be chosen as a bii who enjoyed the respect and trust of the people, had not been blamed by a court, was not under investigation, and was not less than 25 years old.

The elected biis were confirmed by the military governor. They did not receive a salary, but they had the right to receive /177/ a special fee /biilyk/ for judging cases, which was established by folk customs. The fine for property suits could not be determined as higher than one-tenth of the value of the suit. For the judgment of murder cases of personal injuries, the biilyk was designated according to the customs.

692 The opposing sides in a litigation could, by mutual consent, turn to one or several biis for the examination of their case. The agreement of the litigating sides on the choice of a bii or biis for the judgment of their case had to be entered in the book established for the recording of judgments. In such a case, the judgment of the biis, as having the character of arbitration (1) was final in any amount.

1. In ancient times all courts were courts of arbitration among the Kazakhs, i. e., they were chosen each time by both sides. The plaintiff and the defendant appeared before the bii chosen by them, and if the bii was far away they

appeared before another respected person, and as a sign of submission to his judgment each cast his whip or cap before him. The person who was dissatisfied with the decree of such a judge was submitted to blows of a whip in case of defiance or paid a fine to the arbiter. Two, three or more biis could be chosen instead of one.

When the sides of the litigation disagreed on the choice of biis, the case was judged by a bii from the defendant's uyezd, indicated by the plaintiff. Meanwhile the defendant had the right to object to only two of the biis indicated by the plaintiff.

The biis made the final decision on cases concerning a value no higher than 100 rubles (5 horses, 50 sheep).

Periodic volost sessions of biis were designated for the judgment of cases concerning sums greater than 100 rubles, at which all the biis in the volost were obligated to be present.

For cases submitted to the judgment of volost sessions, the petitions for suits were brought to the volost administrator. The volost meetings were called according to the measure of accumulation of petitions for suits, and their time and place were determined by the uyezd chiefs.

The sessions of the volost biis took place in the presence of the volost administrator, but the law strictly forbade him to interfere in the trial.

/178/ The volost sessions had the right to settle cases for any sum, but their decision was final only for cases up to 1000 rubles (50 horses, 500 sheep).

Declarations were made to the uyezd chief on unfinished judgments of the volost sessions within a seven day period from the day of the notification of the judgment. Petitions for the examination of criminal cases were also taken to the uyezd chief.

Extraordinary sessions were convoked by order of the uyezd chief for the judgment of the cases mentioned, in accordance with the need, if the case affected one uyezd, or upon the agreement of the uyezd chief with the jurisdictional authorities, if the case affected volosts of various uyezds. Extraordinary sessions were brought to the attention of the military governor.

The extraordinary sessions of the biis took place in the presence of the chief of the uyezd where the meeting was held, or in the presence of an official specially commanded to be present.

692 But their interference in the court was strictly forbidden.

The decrees of the extraordinary sessions were final. The examination of cases in the volost and extraordinary sessions was determined by custom.

Marital and family cases were settled by biis in court according to folk customs. In marital cases, the side which was dissatisfied with the decision of the people's court could appeal to the uyezd chief, who was deciding /reshal/ the case, and in more important cases, the decision could be presented to the military governor for review.

The Kazakhs could turn to a Russian court with a petition to judge their case, with the mutual consent of both sides, expressed in a written document.

The court of the biis was rendered clearly and publicly.

It was the obligation of the local Kazakh chiefs to produce the defendants in court and to present witnesses on the demand of the biis.

The decree of the biis was inscribed in brief in a special book. The biis were required to affix their seals to a judgment.

/179/ The decision of the biis was announced to both sides, and a copy of the decree authenticated by the affixing of a seal, was given to the side in whose favor the case was decided.

696 The carrying out of the decisions of the court was laid to the duty of the volost officials, who were subject to suit for delayed fulfillment of the decisions, on the basis of general laws for the inaction of the authorities, and also subject to the repayment of losses, if such losses were incurred by their delay. (1)

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1. Articles 181-210 of the projected code for the administration of the Semirechie and Syr-Darya oblasts.

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693 Under the khans, the biis were designated from a number of rivals, petitioning for this office with gifts (one or more horses), and who were known for their intelligence, authority, erudition and experience. They did not consult the wishes of the people. Candidates whose ancestors had not been biis could receive this office only rarely and with difficulty.

The Kokandians did not touch this system.

At present many place intelligence and justice in the biis before an exact knowledge of customary law, especially since now every bii has his own devices, which often contradict each other (chatak). 693

The biis used to be judged by other biis or clan heads, but now they are tried on the common basis.

Bad language, yelling and scuffling in court is prosecuted by the biis. No prosecution is made for infliction of wounds in court if the wounded person was guilty, but if the guilty person causes the wounds, he is liable to the payment of the same fine which is imposed for the same crime committed outside the court. [687] 683

The punishment is not made heavier for murder and fighting before the court.

If someone dishonors the bii in words, they rebuke him saying: "Your tongue touched upon the bii" (biige tiling tiidi), and he is forced to ask forgiveness, but no fine is imposed, the more so because the bii hesitates to enter a suit concerning this. 693 683

/180/ The wergeld is not changed for the murder of a bii, but a larger fine is imposed for wounding him than for wounding a private individual. There is no prosecution for blows inflicted on a bii, if he owed money, but for unjust blows a fine is imposed which is higher than the usual one. For the exaction of these higher fines it is necessary 1) that the act be proven, and 2) that the person guilty of injuring the bii should be from the district /okrug/ of that bii. The injury of a bii from a strange village is prosecuted in the same way as the injury of an ordinary person.

The word mekhkeme, i. e., tribunal or court chamber, was not used in former times. This is now the name for the place or tent designated by the bii for the admission and examination of complaints in the Perovsk and Auliye-Ata uyezds. The biis sit on felt (tekemet), in the place of honor in the tent or room - the "tur", which is opposite the entrance, and before them on the ground are the plaintiff, the defendant and other persons who have been called in. In general, however, the examination of cases takes place anywhere and at any convenient opportunity. The court is where they find the bii, be this in the road, on a visit, or at a bazaar. The most precious convenience to the nomads lies in this simplicity of the conditions of a court. An experienced bii has his book of decisions and his seal with him in all places at all times. 695

The bii first hears and enters into his book the complaint of the plaintiff (dagvager), and then gives the floor to the defendant (dzhuabger tanbys) or to the witnesses. All those called to the court

695 interrogation explain themselves not only to the bii, but also among themselves until the actual announcement of the decision. During these negotiations the bii learns the desires and opinions concerning the settlement of the case in various ways, by requiring an oath from one side or another or from a certain number of tents, after eliminating a certain number of "disputable ones" from among them. The bii bases his decision upon these negotiations.

If the trial is held by two or more biis, the biis withdrew from those present to confer among themselves.

In former times when the sides were satisfied with the decision, /181/ each held one end of a colorful rope (aladzhip), which was cut by the bii deciding the case as a sign of final division. When the ritual of cutting the "colored rope" (aladzhip kyrkpak) or "the twig" (chibyk kispek) had been carried out after the decision of a case by a bii or outside person, the case was not accepted for reexamination (khukmdi buzmak) by a bii or a khan, if it was simply proven that this ritual had been carried out.

Without this ritual, a case which had been decided by a private person in the capacity of a court of arbitration could be reexamined by a bii of the white bone but only on condition that the reigning khan was of a clan of the same white bone. In general a case decided by a bii could be reexamined by a khan. Complaints addressed directly to the khan, by-passing the biis, were either examined by him personally, or else, by his order, by a bii from his suite. The khan took a payment (khanlyk) of approximately one-tenth of the suit for his judgment of the case.

In cases of wergeld, instead of cutting the twig there was a custom of cutting the tail (kuyruk kisti). The bii cut the tail of a calf which was held by the two ends /sic/ by the plaintiff and the defendant, and received the calf as his biilyk, and he was then obliged to testify to the existence of the pacification in case of need.

Now the place of the aladzhip is taken by a voucher from both sides, consenting to everything adjudged by the bii (nendey khukm kylsa razy men). The reexamination of the case according to circumstances discovered after the first decision is possible only when, by force of the new circumstances, the guilty party is led to confess (muynyna salsa), otherwise the decision remains in force (bishim bolyb kalady). (1)

1. In his Notes on the Kazakh Court, I. Ibragimov says: Those who are dissatisfied with the decision of the judge

or the clan chief wait patiently for a large gathering or a memorial service, to which they go, usually taking with them an elder from their village or of their clan, and this elder must defend their complaint before the gathering, and a reexamination which is considered final depends on this gathering. Torgai notes concerning this custom: Biis and elders are both at memorial services, and therefore both dissatisfied sides go there. A bii himself sends them there for pacification, but the host of the feast or memorial service forbids the settlement of court cases lest the celebration be spoiled (buzul masyn). 695

A bii does not enter into the examination of a civil case unless he is turned to. 694

/182/ In former times a bii who knew of a crime concerning which no complaint had been presented could make an investigation of it on an equal footing with aksakals and respected persons (yakhsy ksiler), for the satisfaction of the sufferer.

A bii can refuse to examine a case, especially for bad people. 692 On the other hand, persons dependant on the bii, now excluding those serving him as well, can also refuse to be examined by him (Auliye-Ata uyezd).

If a trial takes place under a bii from the volost of the defendant, and both sides are dissatisfied by his decision, they can turn to an outside person (khalis ksi) or to a bii from another uyezd, but on doing so they must compose a written document (saldym kagaz) concerning the choice of the bii, as a result of which the trial becomes one of arbitration, and final. Otherwise they can turn to a volost official, who either refuses or consents to designate a new examination, but this time not from a single bii but from three or four.

If the plaintiff and the defendant are of different volosts, in the Kurama uyezd it is the custom to choose any bii of a third volost as arbitrating bii.

A court of arbitration (triteski sot), from which it is impossible to appeal, is considered in the present official Kazakh language to be an examination by biis, which is preceded by a document from the sides concerning the choice of the bii or biis, and consent to the decision which they will decree.

If both sides were from one volost it is difficult to appeal. It is easier if they are from different volosts, because the biis are suspected of partiality toward those in their jurisdiction.

For an extraordinary session /Russ. chrezvychainyi s"ezd/

692 (kurulachak s"ez, chirizvichaynoy s"ez), one bii was sent for from every volost in the uyezd, according to the election of the biis of the given volost. Every bii who wanted to get into the session, as Ţorgai expresses it, gave the electors, the biis, a bribe of 2 to 4 rubles each. If there were many who wanted to go, they cast lots (shek salady) among themselves. The person to whom /183/ the lot fell (shek tusken) paid his electors the money mentioned. After this they elected him with the affixing of a seal, and he departed for the session.

There was no prosecution for a bii's refusal to take part in the examination at the session.

Not more than two or three biis are challenged from the session by declaration of the plaintiff, because of their kinship, matchmaking, acquaintance with the defendant, or the receiving of bribes. In a court of arbitration there are not supposed to be challenges because each side chooses its biis itself. For false suspicion (usek suz) in relation to a bii (kinship with the opposing side, bribes, etc.) punishment is not customary.

The declaration of the challenge of a bii is not accepted after the judgment of a case by the session.

695 The meeting considers the decision being appealed and all the papers relating to the case: acts, documents,(1) reports. It hears out the declarations of the opposing sides, and recalls, if necessary, those witnesses whose testimony was already mentioned in the decision under review, while also taking new evidence into equal consideration. In land disputes they ride out to inspect the

1. In an official document of a debt, the year, month and day it is issued are indicated; the period in which it is to be paid; the sum, including the interest, calculated by the period over which it is to be paid; its authentication by the village head, etc.

The sum which is recorded in the document is sentenced to be paid.

If the person who presented the document and the guarantors mentioned in it disclaim it, but the plaintiff and the bii recognize it, it remains in force without the assignment of an oath. In just the same way, if one of three persons presenting such a document recognizes it, it remains in force.

localities.

In recent times it has come into custom and is considered "according to customary law" at the meetings to declare a judgment by default (sirt khukm, sirt kesik) after the defendant has failed to appear twice. This was not in the old customary law. There are always complaints concerning judgments by default, with the declaration that "the biis did not act according to customary law."

In their decrees the biis must state clearly what /184/ the petitioner sought and what was adjudged in his favor, or how the case ended, and especially to record the biilyk established for the judgment.

A copy of the judgment, cut out from the book (1) must be given to the person in whose favor the case was ended, in final form, as a result of swearing or not swearing the oath, if an oath was assigned.

A copy is given to the unsatisfied side, if it declares dissatisfaction with the judgment from one bii of over 100 rubles, or after a theft, at the volost session, for a suit for over 100 rubles, or for baranta or for murder.

When he receives the copy the receiver must write a receipt in the book on the reverse side of the report.

In the copies they report briefly and clearly: the content of the suit without explaining the testimony of the opposing sides; the judgment with an exact indication of the sum exacted and the biilyk; the time when the judgment must be carried out; the year, month and day of the judgment; the number and the book from which it is cut out; the affixing of the seal.

According to Amanbai, the weak are subjected to injustices and force at the volost sessions, which assemble in the steppe.

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In the opinion of sultan Babagaliev, (2) only Kazakhs of their own volost and persons of means receive satisfaction at a volost session. Indeed the biis of the extraordinary session hesitate still less than the biis of the lower instances, knowing that the judgment of the extraordinary session is final. On the eve of the court session they

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1. There is a model of the form of the bii's book in Supplement No. 6.

2. Lieutenant of the army infantry, Kazakh of the Perovsk uyezd.

simply bargain with the litigants on the amount of the bribes. (3)

3. Sultan Babagaliev advises, among other things, the following measure: to call together half of all the biis in the uyezd to the uyezd government and all the volost administrators; from their number the uyezd chiefs would designate one volost official as chairman every day, and one bii apiece from each volost as members of the court, and would seat them in special quarters where outside persons should not be admitted, so that biis not invited to judge (dzhanbas bii) would not interfere with the case, as often happens. The strength of the measure proposed lies in the fact that neither the biis nor the litigants should know /185/ which biis would examine which case. They should discover this immediately before the beginning of the examination. At these sessions it is necessary that the uyezd chief or his assistant should make certain that the biis do not postpone a case to the next day, which is the equivalent of receiving bribes.

/185/ The extortion of bribes (para) by the biis may take place before outside persons or in private. In the latter case the bii hints in the following manner: "This case depends entirely on me. Other biis would take so and so much money, but I take nothing." Then with the mediation of his man the bii can make himself understood more openly to the defendant: "You are right. They will discover the justice of your case and impose an oath on those who exonerate you." (ak sen aklykka shygarady, dzhandy uzing shygatugun dzheringe salady). He says to the plaintiff: "We will require an oath from the side which does not acquit him We will determine a larger fine for you. We will also sentence him to pay the court costs and produce the penalty for you without delay. You are losing nothing, but give us what you can"(dzhandy chykpaytugun dzherge salamyz, aybyngdy kubeytamiz, yana chygyndy onyng muynyna salamyz, yana toktausiz mal underib beremiz, sen kuymeysen, bizge beretuguningdi ber) (Torgai). Later the judgment is decreed on behalf of the side which gave the most. (1)

1. This is included as an example. It is obvious that extortion by the biis is not a kind of common occurrence which invariably accompanies bii justice.

The volost administrators also influence the judgment. If a a volost official is protecting the defendant, the bii imposes an oath on the group of fifty of the defendant, when it was necessary to impose it on a village. He does this so that there will be a greater probability of the appearance of the juror (shygatugun dzher), for in a close circle there are fewer enemies, and even these are challenged as "disputables." The bii declares: "Say first of all who your enemies are or the disputable ones." The defendant names two or three persons.

If the plaintiff enjoys the favor of a volost official, the defendant is brought forward at once, and the bii imposes an oath the village of the defendant instead of the group of fifty. Later, when the disputable persons are challenged, the defendant is required to prove that the persons challenged actually had been involved in litigation with him at some time.

/186/ If the bii is not decided on doing what is pleasing to the volost official, the latter encourages him with the words: "Do not be afraid of an appeal. The exaction will be taken care of before then, and after that we will see somehow" (sizning khukmingiz buzulgancha dzhuaberdgan mal tulenib kalady).

When a bii learns that the volost official received a bribe from the defendant while he himself only received a bribe from the plaintiff, he sends to the defendant to receive a bribe before deciding the case in his favor. If by now the defendant will no longer give the bii anything, the bii judges the case in favor of the plaintiff, figuring in this way: "I have rendered a service to the plaintiff, my affair is closed. Let the volost official change my decision." But if a copy of the sentence has already been given out, a reversal of the decision of the bii can follow only by means of a volost session, and the volost official is left to paralyze the judgment by not carrying out the exaction or evaluating the object of the exaction at higher than its real value (Torgai).

For an unjust decision of one bii, overruled by many biis, the first is not prosecuted. (1) But if it is proven, with the help of 687

1. In Kazalinsk in 1887 there was a case in which a judge was badly beaten by a defendant for an unjust decision. The complaint by the bii against the offender, as an act during the fulfillment of the duties of office, was transferred to a court of arbitration, which sentenced the offender to three

687 days confinement by the police.

witnesses, (2) that the bii has accepted a bribe, in most cases this

2. There are cases where both sides present many (70-90) witnesses, ready to testify under oath that the bii has taken or has not taken a bribe.

circumstance is passed over to a court magistrate for the further prosecution of the case of criminal breach of trust.

In the steppe in such cases they complain to the volost official, who charges the bii to "soothe the heart" of the complainer (keunin tultirib bering), i. e., either to clear himself by oath, or to give some sort of satisfaction to the dissatisfied person.

If there are no witnesses the bii usually clears himself by oath.

694 /187/ The summons of the litigants and the other interrogated persons to appear in court is in general the duty of the volost official.
661 He has riders /dzhigity/ for the summoning of the litigants. The plaintiff gives the rider who is sent for the defendant a certain sum, called "kyzmet" (good turn) which depends on the distance of the village of the defendant. If he wins the suit, he receives this money included with the other court expenses from the defendant.

The defendant asks the rider to tell the volost official that he was not at home. The rider refuses, demanding that the person under summons depart at once. Then the rider receives a bribe and reports to the volost official that the defendant was not at home. The volost official releases the plaintiff who is waiting there, for several days, adding after him: "Do not come empty, a!" (kuru kel'mengiz a!); meanwhile before the others the volost official says nothing, only rubbing his beard as though oiling it - a sign which is understandable enough to the plaintiff. After the departure of the plaintiff, the volost official asks the rider in a low voice whether he had found the defendant at home. The rider says: "He was. He gave me so and so much and promised also not to offend the volost official (kuru koymaymen)." In the evening of the same day the volost official sends another rider who frightens the defendant for not appearing. The defendant gives him something, in order to weary the plaintiff by delays.

Sometimes the volost official gives the plaintiff to understand, via an outside person, that the defendant was not at home 3 or 4 times, but nevertheless he, the volost official, will force the defendant to be found, even if he has concealed himself under the ground 661 (yerge kerib kitse de taptyramyn). But he needs remuneration for this. The plaintiff gives him something. Then the volost sends someone to tell the defendant on the sly that he should come but not to be afraid. After this the case is transferred to the bii.

After the litigants have presented a documnet with the choice 694 of several biis, the volost official designates the place and time for their court appearance, warning the plaintiff that if he does not appear his suit will be refused, and the defendant that he will be considered convicted for non-appearance. But in spite of this, when the defendant does not appear, the case is not decided in his absence, but they send once again to his place of abode, and only if he /188/ flees from there can the volost official command that the judgment be made in his absence. Sometimes the defendant submits a complaint after all this for the biis' judgment by default. Then the biis are required to swear that he was summoned twice (Torgai).

In the opinion of Torgai, article 35 in Samokvasov: "If some- 694 one is sent after a person, and the envoy is beaten and receives 683 wounds on the face, then the latter must make the same marks on the former in return" etc., is probably founded on the orders of some individual powerful volost official. Although on the other hand the Kazakhs have a proverb: A stick is rewarded by a stick (tayakka tayak kaytady), i. e., an eye for an eye and a tooth for a tooth.

If a rider was sent by a volost official but not on the basis of an order from the uyezd chief, then there is no prosecution for signs (tamga) on his face from blows. At any rate, when there are no witnesses, and the "tamga" /brand/ is only on the rider and not on the owner of the tent, then it depends on the state in which the rider emerged. /v tom, budto prikhodil dzhigit/. The affair ends with the words: "Come out and make peace" (dalaga chygyngiz yarasyngiz), for no oath is imposed for this. (1)

1. It may happen that the rider collects people for some sort of general suit and encounters resistance in this and receives blows with signs on his face or on his body. Then the people, who want to get around the rider, give him something, but not by customary law but voluntarily, for example a horse and a coat. They ask him not to lodge a complaint, saying: "Even if your head is cut, it is under your cap, even though your arm is broken it is in a sleeve" (bas yarylsa burk ichinde, kol synsa

694 683 dzhiing ichinde). As an excuse they use the saying: "quarreling and scuffling is a path which has existed since ancient times" (uruspak talaspak burunnan kalgan yul).

Since signs on the face are visible, they set value on the face, and they say to the offender: "you put a brand on my moon-like face" (ayday betime tamga saldyng), i. e., you mutilated my clear face. A wound on the arm for example is not important, unless a bone is broken (Torgai).

694 A rider can beat the person being summoned, in order to force him to go faster. A wound inflicted during this is not prosecuted.

When the volost official delays the summoning of the litigants and the witnesses, and the biis delay the examination of a case, the defendant hastens to declare a suit completely like the suit of the plaintiff (karsy dau, karsyma karsy dau). This is also done at the time of the examination of the case, sometimes /Inserted page. Picture. Caption: A session of the people's court: the plaintiff, bii Akhmet Turgaev, bii Chekaman Iskenev, bii Chokai Turgaev, the defendant. Drawing by Akhmatov. /*/189/ also by the witnesses. But the biis avert such a suit. Exceptions to this are suits concerning animals recognized at a bazaar.

695 Mutual suits between quarreling kinsmen remain without consequence because of their extreme complication, or are led to pacification "in view of kinship." When it is impossible either to avert or pacify, then an oath is required from each litigant on his suit (Perovsk uyezd).

According to bii Sultan Kanaev, in mutual suits without witnesses two propitiatory oaths are given: one to the plaintiff himself, and the other to the defendant himself (bas basyna - on the head of each of them), the first on the suit which was declared earliest, the second on the cross bill. A biilyk is taken for each of these suits, but only when the suit is made good. Otherwise the biis limit themselves to collecting for the affixing of their seals (mukhrane).

If a part of a suit is shown to be just, it still does not follow from this that the entire suit is just. The part of the suit which is subject to suspicion must be approached as though it were a special suit.

The combination of crimes is not taken into consideration. Every crime is judged separately.

If a suit touches upon two objects which are usually not found in one place, the suit is divided (biis' books of the Perovsk uyezd).

* [Not reproduced --A]

Often the first plaintiff is joined by a second, in order to get 695 an easy profit because of the conviction in the first case. Therefore the case of each plaintiff and each defendant must be examined specially.

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Attorneys (vakil) already existed under the khans. They were 693 also called "those who buy suits" (dauny satyb algan).

According to Zagriazhskii, (1) minors and insane persons cannot be attorneys. The attorneys must convince the biis that the conducting of the case is specifically entrusted to them. They must /190/ be present during the testimony of the opposing side, and they procure the fine which is exacted for their principals. If the sender of the [676] trusted person is sentenced to a fine or to corporal punishment the sentence is carried out on the sender. The sender of the trusted person can protest against the judgment of the bii, if his agent abused his trust.

According to another source, the constituent can refuse the settlement of the agent in whom he has trusted, if the former has not given a written warrant.

Warrants are not the custom in the Kazalinsk uyezd, according to the communication of E. A. Aleksandrov, but persons are admitted who know how to speak in court. Such persons never appear in court without their clients.

During the swearing of an oath, only the plaintiff or only the constituent (ak iese) was present according to customary law, and this is still true today. The person entrusted by the constituent is never present during the oath of the opposing side.

Every man who has reached his majority who has seen or knows 695 of a crime is admitted to give the testimony of a witness. A true (nagz) witness (aygak, gua) is considered to be he who has brought in the captured thief with the goods, or has taken the stolen goods away from him together with a horse and a coat, or has received syuyunchi from the owner before the people and the authorities (Perovsk uyezd).

Informers are divided into those who are open(bet aygak) and those who denounce behind the back (syrt aygak). The former are called to prove the truth of their words face to face with the thief.

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1. Materialy dlia Statistiki Turkestanskago Kraia /Materials for Staistics of the Turkestan Region/, Pt. IV, pp. 194, 195.

696 The latter only inform as to who did the crime and under what circumstances, but do not wish to be witnesses in the examination of the case. They say: "We speak behind the back, we cannot speak eye to eye" (sirtinen aytamyz, betinen aytalmaymiz), according to bii Sultan. According to Aleksandrov, custom does not approve of de- [577] nunciations concerning crimes, and informers are always under suspicion in their communities, according to the proverb: "a thief has one cheek black, but an informer has two."

/191/ The testimony of witnesses is confirmed by oath, not by them but by their sides, i. e., the clan or community (Perovsk uyezd).

If there is no information and no trace of stealing and a man appears who declares that he knows the thief and takes syuyunchi from the victims, and the thief, who has not confessed, begins to be tried, the man who has received syuyunchi is obliged to furnish an oath from his relatives for the amount of the stolen property. If he does this and thereby proves the theft and forces the guilty ones to pay, the victim of the theft receives only the property stolen from him and the syuyunchi given the accuser. The fine exacted (ayb) goes to the accuser. (Bii Sagyndykov, Chimkent uyezd).

Among the Kirgiz, the witness himself does not swear an oath. His close kinsman (yanasha) takes the oath for him, even though he be a bii or a volost administrator.

If the veracity of the witness is unquestionable, i. e., if the thief was caught in the act, if they took a coat and horse from the thief, and if the witnesses are very respected persons or those who have power, then their words are believed without oath. The imposition of an oath from them is generally avoided, out of respect to persons who enjoy position in the community. When there is, nevertheless, a basis for not believing their words, an oath is required from the side of one of the litigants, as the custom is in trials without witnesses.

If the guilty parties do not confess, even when the testimony of the plaintiffs are confirmed by witnesses, an oath is imposed on them.

If a witness compromises himself by his testimony, for example, saying that he permitted the defendant to tether the stolen camels, when at the same time the defendant is denying this, the biis still do not see their partnership in stealing as proven. In such a case they either leave the defendant to swear a purificatory oath, after which the witness appears as the thief, or give the oath to the witness to defend him from chances, i. e. a false oath of the defendant (Mikebai).

If a father indertakes to prove the innocence of his son, /192/ he is called a witness, and they give him a period of time in which to find the thief, after which, if he has been unsuccessful, he is sentenced to pay the sum of the suit (the biis' books of the Perovsk uyezd).

A mother and other female relatives are permitted to give testimony as witnesses, but they do not furnish oaths. For this reason when they see a crime committed, women as well as minors call in grown men if possible as witnesses.

According to Umurbek (Auliye-Ata uyezd), witnesses in the full sense of the word cannot be 1) minors, insofar as they actually are unable to be convincing; 2) persons who have a bad reputation, for their testimony does not carry weight; 3) women, concerning outside affairs, and 4) madmen - under all conditions. E. A. Aleksandrov adds to this list persons of illegitimate birth, whose testimony as witnesses is given no credence at all in the Kazalinsk uyezd.

Servants testifying in favor of their masters are not taken into consideration. Servants who testify against their masters, not maliciously but in good faith, are taken into account but are not permitted to take an oath.

No special significance is attached (muncha iltifat kylmaydy), to persons who bear witness on behalf of their kinsmen, in view of their kinship ties (tuuskandyk klady, yakyndyk kylady). If they bear witness against them, and if, because of their integrity, they are deserving of trust, the case is decided on the basis of their words, without an oath. If they are bad people, they are not believed, but oaths are not required. The closer the kinship, the less they are permitted to swear an oath.

If each of the litigating sides has its witness, they permit the one who gives the most reasonable and well-grounded testimony (br meme sebebi bar iken) to confirm his testimony by oath, and the one who is less bound by kinship to his side.

Formerly the witnesses gave testimony without oath. Now /193/ witnesses are almost never interrogated without requiring an oath from their side, because the plaintiff is not satisfied without this.

If there are several witnesses, after they have all been interrogated an oath is required from one of them or two, depending on the sum of the suit, but only from one side, by the selection of the

695 opposing side, for example, of the defendant (dagvagerining tanglauyncha).

The interrogation of witnesses with an oath is necessary in criminal cases, naturally, only when the defendant pleads not guilty. In civil suits if a witness was not only present, but was also invited as a witness in the conclusion of an agreement, the transmission of money, etc., he gives testimony without an oath, even though the defendant denies his guilt. Once both sides have agreed on one and the same witness, the case is decided on the basis of his words, and one side can no longer bring an exception against it afterwards./

The refusal of a witness, not from support of his own words, but of the solemn confirmation of them by presenting the oath, is now considered as a conviction of his side (Umurbek).

According to Torgai, an oath is required from a witness when the litigant declares him to be partial (spur, i. e., disputable).

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672 There are two kinds of guarantors: 1) tankefil' (1) or erefil', 2) zarkefil' or malkefil'. The former engage themselves to present for confrontation (taub beredi): suspects who are under investigation and trial, or thieves or criminals, including those under sentence, and also in the case of non-fulfillment of some sort of pact. The latter are held responsible with their property when such persons fail to fulfill pacts and obligations. Guarantors of the second type are usually karavanbashis, while guarantors of the first type are the relatives who take a thief from the hands of the volost official for correction.

Both types of guarantors are characterized, according to Makovetskii and according to bii Sultan, by the saying: "a guarantor dies for a man, /194/ and pays for property" (erge kefil' uledi, malga kefil' tuleydi).

Both sides can have one and the same guarantor. The death of a debtor (karzdar) for whom a zarkefil' has been guarantor, does not relieve the latter from his property resposibilty for the deceased. A guarantor who has paid for the obligations of a negligent or deceased debtor can open a suit for the exaction of the losses from the heir.

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1. According to Aleksandrov, tankefil' means unfaithful, so that it should be pronounced tanykefil'.

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The tankefil' is not held resposible for the death of a man released on bail. If he flees, the tankefil' is sentenced to the same sentence which had been imposed on the person who fled. But according to Aleksandrov, the tankefil' is held responsible according to agreement.

When a middle man becomes a zarkefil', both sides pay him kafiliane for this. This happens in obligations of debt.

If a person who has bought stolen property unknowingly has it confiscated, he turns to the person who sold it to him. If the seller declares that he did not sell it, and there were no witnesses present, then they require him to swear an oath to clear himself. The guarantor pays after the oath is sworn. If the guarantor denies that he guaranteed it, they also require him to swear a purificatory oath.

Sometimes the owner of a thing given out in debt touched the arm (bilek - from the elbow to the wrist of the arm) of the guarantor. If the fact of this contact is beyond doubt, on this basis the bii sentences the guarantor to pay the debt because of the insolvency of the debtor (Perovsk uyezd).

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Among the convincing proofs in a trial are: the confession of the defendant, contradiction of testimonies during interrogation, the generally known corruption of the accused, his disposition for lying, the absence of definite occupations, capture on the spot of the crime, the finding of the lost property with the defendant, fresh tracks leading from the place of the crime to his tent, his flight from the trial, his non-appearance at the trial, the testimony of witnesses, every sort of written document, etc. In the Perovsk uyezd one case of wergeld was broken off on the basis of the testimony of a Russian doctor that death was by natural causes, and not /195/ the consequence of blows. In the Kazalinsk uyezd the chief of the uyezd transferred the case of Suleiman Burdzhanov, who lost an eye in a fight, to an extraordinary session, on the testimony of a Russian doctor. (1)

1. In the Kazalinsk uyezd there was a case in which biis required wergeld in spite of the testimony of a doctor who stated that the loss of the eye was due to illness.

Convincing evidence loses force when the defendant denies the fact of confession, capture, the finding of tracks, the giving out of written documents, etc. For this reason the capture of a thief on the spot of a crime, the confiscation of the stolen goods from him, the finding of fresh tracks, etc. must be immediately reported to the authorities or to the senior people in the village.

If all the testimony of a litigant is based on a certain circumstance which is later shown to be false, this is enough to decide the case against him.

Material proof, such as a bloody knife, does not have great importance in the court of the biis, for the blood could be the blood of a sheep, etc.

When a judge, after a precise (ayrmachyk) and impartial examination (tiksharyb karaganymyzda) of the evidence presented, convinces himself of the degree of guilt or innocence of the persons examined, for example, the defendant, then without regard to the latter's firm assertion that he is innocent of the charge (dagvasynan saumen, aman ben), the judge decrees the judgment without oath. The same is done among the Kirgiz.

When a judge believes he finds innocence or guilt from the evidence presented, but will not take resposibility on himself for his opinion, he assigns an oath to be sworn by the side of the witness, i.e., his community or clan, and rarely by the witness himself. A bii assigns an oath to be sworn by one of the litigating sides only when there are absolutely no witnesses or because it is either impossible or inconvenient to require an oath from them.

A suit is not dismissed for lack of evidence, because the plaintiff is not obliged to prove the justice of his suit. On the contrary, the defendant is obliged to prove his innocence. From this it is understandable why /196/ the situation of the defendant is called "nashar", helpless, and he is given the possibility of confirming his words by an oath from his side, for the sake of mitigation. In general the assignment of an oath from a certain side can under certain circumstances make things easier for that side.

It is said in Makovetskii, I p. 69: Even though convinced that a denunciation is false, the bii nevertheless continues his examination of a case and assigns an oath from the accused. Sultan Kanaev reports that in this case the biis ask the plaintiff whether he still insists on his suit or not (osyny suraysyn be ya suramaysyn), and if he insists, then an oath is assigned. But fraudulent suits concerning the theft of money should be dropped without consequence without asking the plaintiff. "In general all suits concerning the theft of money are false, for how could money be taken from anyone without killing him or wounding him?" added bii Sultan Kanaev.

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Formerly the payment to the biis (biilyk) was not determined exactly. In addition to offerings and gifts, they received one of the best animals from the fine or at least a coat from the atton. Usually the entire fine received went into the khanlyk and manaplyk (among the Kirgiz), minus the stolen property.

In accordance with the law of 1867, the biilyk was required to be one-tenth the value of the livestock. The sum of the biilyk was recorded in the report, with the indication of the side which had to pay it, and whether the biilyk had been received or not.

Often, when it is impossible to get one-tenth, the biis limit themselves to a smaller part, trying to obtain the biilyk immediately after the announcement of the judgment, before the case is ended by an oath. For this reason it sometimes happens that the biis must return what had been received prematurely, for example, in an appeal. In order to receive the biilyk immediately, the biis either require half of it to be paid by each side, or an equal part from all the litigants, or exact it from the side which has cash, leaving it to the winner of the case to obtain the given biilyk from the loser. Sometimes this /197/ is recorded in the biis' books thus: "now both sides are paying equally, at the end the loser pays" (khasyr yeki taraf ting tuleydi, akybytda dzhygylgan tuleydi). But in general among the Kazakhs the imposition of the biilyk on one side or the other is not subject to any rules.

At the meeting of the biis of the Chimkent and Turkestan uyezds, in September 1877, it was established to take a biilyk on the basis of customary law in the following amounts: for the judgment of a case for the wergeld of a man, 300 rubles, for wergeld for an eye, 150 rubles, for crippling a man, 20 rubles; for the judgment of cases of theft, 8 tillias /24-32 rubles/ for one camel, 4 tillias for one horse; for cases of fights, 2 tillias.

Among the Kirgiz the biilyk is usually collected from the person who receives a sentence to pay. Sometimes it is collected from both sides, by the degree of their guilt (gunesine Karay). The biilyk is collected at the time when the judgment is established (mal kisedi). Whoever cannot pay at once can be given a deferment, but if his offense is great they demand payment immediately.

The biilyk can be received in natura, for example, in suits concerning a harvest.

The biilyk is also collected when cases are ended by peaceful

693 arrangements.

When a suit or part of it is abandoned without consequence because of distance or some other reason, a biilyk is not collected.

A biilyk is not taken when a session is abandoned by force of an earlier decision. Also when an earlier decision is overruled, the biilyk received for it is returned.

When the bii decrees that the period of time of an oath is to be extended because of the illness of the swearer, he receives biilyk for this labor.

According to bii Sultan Kanaev, of the Chimkent uyezd, a biilyk is not taken even in such cases where the defendant clears himself by oath. He pays only about 20 or 40 kopeks then, up to one ruble, for receiving the document of acquittal from the bii with the affixing of the seal. This collection is called mukhrana ("for the seal").

681 /198/ Losses and court costs (chygyn) are included in the fine itself. When the fine has already been obtained, the biis can refuse a suit for the recovery of court costs, with the exception of cases concerning wergeld., for in such cases many people are summoned into court, and the cost of the summoning adds up to a considerable sum which cannot be covered by a part of the wergeld. (1)

1. According to Torgai, the expenses for a suit concerning wergeld can be separated from the wergeld. All pay equally for the wergeld /po khunu/, but for the expenses the guilty party pays first of all, and then the clan, and the latter pays only when the former already has no property left.

When a suit ends without a fine, the winner of the case seeks reimbursement for the losses and court expenses which he has also been required to pay in one session of the court or another.

692 The period of time for the payment of the fine is recorded in the document of the judgment, but this measure appears in part to be inoperative. The customary law does not assume a period of time.

696 In the case of the defendant'sinsolvency or his absence, the exaction is extended to his group of ten (unbasilas), and when their
692 means have been exhausted, to the group of fifty, then to the village, which is noted in the document. (2) Only that which was necessary for

2. In ancient times when the payer was insolvent, the group of ten, or fifty, etc., in order, did not pay for him,

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but his entire lineage or entire clan directly. For example, 672
in the case of insolvency of a defendant from another lineage but the same clan, the plaintiff received the exaction from the entire lineage, but when the defendant was from another clan, then he obtained it from the entire clan.

life was not taken away.

When the defendant is insolvent, if the sum of the fine is large, for example 1500 rubles, it is decreed to be paid directly by his group of fifty and his village, by-passing the group of ten.

The exaction is not extended further than to that circle upon which the oath was imposed.

An exaction from a cummunity in the order established by the biis, takes place on the basis of an apportionment made by the community itself among the tents (biiding tygyzdauy, khalktyng uigaruy buincha).

A community can refuse to pay the exaction for its member, forcing him to become a laborer. 672

/199/ Requiring the payment from the community is regarded as reasonable in that the clan which fears paying for a thief restrains him by moral influence from repeating his stealing. At the present time the imposition of property responsibility on the community is an outlived principle, since 1) the individual has freedom of action and is not obliged to ask permission of his neighbors before coming and going; (1) 2) as a consequence of the changing conditions of

1. The individual is free to be absent temporarily, but for transferring from one volost to another he remains completely dependant on the clan, which can fail to give its consent for his discharge. The poorest clan keeps a vigilant eye on its solvent member, whom it needs, not even speaking of charitable purposes, directly for the payment of taxes for the impoverished.

life, property among the Kazakhs is associated more and more with the individual and the close circle of the family.

If the defendant is a new arrival, the sentence is extended to his fellow travelers fellow tradesmen, and domestics (kosdas). If none of these exist or they are without property, the defendant can be given out as a laborer.

The decision of the court was formerly executed by riders of 665

696 The decision of the court was formerly executed by riders of the khan or the riders of the biis who decided the case, but any outside person, who received remuneration from the person who won the case.

At present the volost administrators are obliged to carry out the decisions of the biis in the following order: when they have received a copy of the decision, cut out of the book, upon the approach of the date indicated in it for the payment, they announce it through village elders to the defendant, and then, in case he refuses to pay, they take an animal corresponding to the sum, which is evaluated by honorable persons. After the entire sum has been paid to the plaintiff, the volost administrator makes a note of this on the reverse side of the copy, with a voucher from the recipient, and gives it to the person who has paid.

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692 In its regulation of the people's court, the law of 1867 caused it to deviate considerably from the customary court. This fact /200/ had such an essential and pernicious effect on the development of the weak sides of the courts of the biis, that their position proved to be very unsatisfactory and brought many local officials to the conviction that it was necessary to abolish this court and exchange it for the Russian court.

While according to folk custom the litigants are free to turn to any bii for the examination of a case, the law of 1867 required the Kazakhs to be judged only by the biis confirmed by the military governor. In cases where the litigants disagreed on a court of arbitration, and in practice these were very frequent, the law required the plaintiff to choose a bii expressly from the volost of the defendant. Since under the existence of the clan principle every bii naturally stands for his kinsman, the required judgment of a bii from the volost of the defendant is the equivalent of renouncing justice, for the plaintiff cannot expect impartiality from a kinsman of the defendant. Even within one volost, such an organization of the bii's court did not guarantee a just court, because with the obligation of turning to the biis in the volost and with the limitation of their number the biis were made accessible to profit, corruption, the influence of rich and honored persons, and of the electoral parties.

In order to ensure the justice of the decisions of the more important cases, the law of 1867 limited the competency of the individual biis to the sum of 100 rubles, and created extraordinary

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sessions of biis for the judgment of cases up to 1000 rubles, and cases of murders and baranta, also establishing appeals of decisions according to instances. But the mass of small cases remained under the jurisdiction of individual biis and even volost sessions, consisting of a small number of these same biis, corrupted and finding themselves under the influence of rich kinsmen and volost administrators, could not act better than the trials by one person of the biis.

As a result, the trial of the biis became a corrupt trial, unpopular and subject to native officials. The unsatisfactory character of the people's court according to the law of 1867 for the examinations of the complaints of the people brought about the interference /201/ of the Russian uyezd administration in the cases of the bii's courts. The law subjected cases under 100 rubles to the jurisdiction of a bii chosen by the plaintiff from the volost of the defendant. But by using the right of challenging the biis, the defendants were constantly evading trial, and the plaintiff, in order to obtain satisfaction, was obliged to turn to the collaboration of the volost administrator, who could summon both the defendant and the biis. For the latter often failed to pay attention to the petition of the plaintiff for examination, and found justification in their own challenge by the defendant and in his disobedience. In many places there was, in practice, such an order of taking cases into the court of the biis, that not a single case was examined by the biis unless a complaint was taken directly to the uyezd chief or to his assistant, and unless a special order was taken to the volost administrator each time for the examination of the case by the biis. Thus the biis fell into direct dependance upon the volost administrators and the people's court became a field for the arbitrariness of the local authorities.

The Kazakhs, in the words of Sultan Babagaliev, adapted to the court of the biis the proverb: "If an owl is hit with a stone, the owl is killed;if a stone is hit with an owl, the owl is also killed" (tash bilyan yapalakni ~~ursa, yapalak uledi~~ yapalak bilyan tashni ursa, yapalak uledi).

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The law of the 12 June, 1886, on the administration of the Turkestan region, preserved their people's court for the Kazakhs.

Submitted to the jurisdiction of the people's court is: 1) all cases concerning crimes and misdemeanors committed by natives, with with the exception of the following ~~crimes~~: those against the Christian faith, against the state, against the order of the administration, the state or public service, against the decree of state and land duties,

692 against the property and income of the treasury, against the public
673 welfare and well-being, the violation of quarantine regulations, the violation of decrees against epidemic and contagious diseases, the violation of rules established in case of livestock losses, against the common peace and order (the forming of /202/ gangs with malicious intent, and the receiving of persons under suspicion, false denunciations and false evidence in cases, judged according to the laws of the empire, the concealing of fugitives, and the spoiling of telegraphs and roads), against the laws of estates; against life, health, freedom and honor (murder, infliction of wounds, and fights, resulting in death, rape, unlawful detainment and confinement) against property (the violent seizure of foreign immovable property and the destruction of border landmarks and signs, setting fires and in general intentional destruction of foreign property, robbery and plundering, the stealing of treasury property and the falsification of Russian documents). 2) Cases of crimes and misdemeanors, which although not included in those mentioned above, were committed by natives against Russians, and likewise within the borders of Russian settlements. Such cases are under the jurisdiction of court establishments on a general basis.

692 Civil disputes and suits between natives and persons who do not belong to the native population, likewise cases between natives of various nationalities who have separate people's courts, and also suits based on acts carried out with the participation of Russian authorities, are carried out by justices of the peace and regional courts on a general basis.

Jurisdictional disputes concerning cases which take place between people's courts and examining magistrates, justices of the peace and also their assistants are settled finally by the regional court.

Persons not belonging to the native population who are engaged in lawsuits with natives, and likewise natives who have different people's courts in cases among themselves, can if they wish, turn to a people's court. In such a case the plaintiff forfeits the right to open suit on the same case with a justice of the peace or in a regional court.

The jurisdiction of civil cases is determined by the place of abode of the defendant, and the jurisdiction of criminal cases by the place the crime was committed. A suit which relates to several defendants is declared in the place of abode of one of them, at the choice of the plaintiff.

/203/ Cases subject to the jurisdiction of the people's court can be subject to the examination of a justice of the peace of a 692 regional court only at the desire of both sides, which is announced to the court in writing or orally, and entered in the document.

Cases begun in the people's court cannot be taken out of its jurisdiction even though the suit was reconveyed to a person who was not under the jurisdiction of the given court.

A case which is subject to the jurisdiction of a people's court, of which the essence is the determination even of one instance of this court, cannot be transferred to a justice of the peace or to a regional court, except in cases when the people's court makes a sentence to a punishment which is outside the limit of its authorities.

Sentences and judgments of the people's court which are decreed in excess of power, or in cases which are not under their jurisdiction, are not carried into execution, and the uyezd chief represents the procurator for them. The latter enters a protest in the regional court, which, in case the sentence is overruled, returns the case with the necessary indications to the people's court for the establishment of a new judgment, or if the case is not under the jurisdiction of the people's court, it gives it legal direction.

If the sides are not pacified, in cases of crimes and misdemean- 692 ors, the people's court, independent of the determination of payments 684 for losses and damage, imposes on the guilty parties the following punishments: a) fines in money no higher than 300 rubles, and b) confinement under guard for no more than one year and six months.

If as a consequence of the incorrigibly bad and pernicious behavior of the person under sentence, the people's court considers the punishment which it has a right to impose inadequate, then having determined it within the limits of its authority, it can intercede through the regional government to send the person under sentence from his place of habitation, after his punishment is finished.

A monetary fine designated by a people's court as a personal 681 punishment is, in the case of insolvency of the person under sentence, substituted for by arrest of no more than three months, or by his being given over, by /204/ command of the uyezd chief to public labor for this same period of time.

692 People's courts are desginated, by election of the population, for three years.

The number of people's courts and the limits of their sectors are determined by the regional authorities before the elections, so that the number of courts among the nomads in the volost may be no less than four and no more than the number of village communities

692 in the volost.

Any person of the inhabitants of the volost can be elected to
692 the people's courts who enjoys the respect and trust of the people,
693 and who has[1] been subject by sentence of the court, to punishments
in excess of arrest for seven days or monetary fine of 30 rubles, who
is not under judicial examination or under trial, and who is no less
than 25 years of age.

The elections for the people's courts take place by a volost meeting of the electors, who are chosen by village meetings with one for every 50 heads of houses.

Two candidates are elected for every office of the court. The confirmation of one of them for the office of the judge and the other as a candidate for it depends on the governor, who designates new elections in case neither of these persons is confirmed. In the case of absence, illness or death of the judge, the candidate for the position carries out his duties, with the permission of the governor.

The people's judges receive payment on the basis of the customs existing on this matter.

The people's judges are equipped with special insignia to be worn when they are carrying out their official duties, as well as their official seals and books for the recording of judgments and deeds.

The close supervision of the keeping of the books is a duty of the uyezd chief, but meanwhile the responsibility for lack of observation of the established order falls upon the judges and chairmen of the sessions, according to who is concerned.

The people's judges are transferred /205/ to trial by the regional authorities for criminal breach of trust, on the basis of the decrees of the code of criminal law procedure which determine the order of arraignment of persons of the administrative department.

The people's court constitutes: a) courts presided over by one person, b) sessions of judges, and c) extraordinary sessions of judges.

692 All cases, both criminal and civil, begin before a single judge.
But the litigants have the choice, by mutual consent, to turn direct-
695 ly to a session for the examination of their cases, avoiding the single
judges, and likewise to outside persons, whom the litigants entrust
with the settlement of their disputes. The judgments of the chosen
mediators are final, no matter how large the value of the suit is.

The mutual agreement of the litigants on the choice of mediators must be entered into a special book established for this purpose in the volost, and signed by the litigants. The judgments

[1] [Should be "has not been" - A.]

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of the mediators are also recorded in the same book, which are signed and confirmed by both the seals of the mediators and of the litigants.

The people's courts of the nomadic population proceed to examine cases upon the complaints of private persons or upon a cummunication [694] from the volost administrator or the uyezd chief. When the litigants disagree on the choice of a judge, the case is decided by a judge indicated by the plaintiff, but meanwhile the defendant is allowed to challenge two judges.

The decisions of judges, involving sentences of no more than 30 rubles, and no more than seven days of arrest, are recognized as final and are not liable to appeal.

The decisions of the judge are announced to both sides, with the issuance of copies of the decision in case of demand, authenticated by the affixing of the official seals of the judges.

The people's courts may hear testimony concerning every sort of deed and agreement among the natives subject to their court, with the exception of settlements concerning immovable property, when the right of property in them is confirmed by deeds made out under the force of the general laws of the empire.

/206/ Deeds issued by the people's courts must be signed by the sides in their own hands, or for illiterates, by no less than two trusted persons and witnesses. They confirm the signature and the official seal of the people's court authenticating it, and they are recorded to the letter in the corded /shnurovia/ book, under the appropriate number in the sequence.

Sessions of judges are called together in every volost, and are 692 made up of all the judges, although a session is considered legally constituted when no less than three judges are participating. The sessions are called together when needed, at times determined in advance by the uyezd chief. The sessions take place in the presence of the volost administrator, whose duty it is to pay special attention to decorum in the place of meeting of the session.

The people's judges appearing at the session elect a chairman from among them, who directs the order of examination of the cases.

Cases of complaints concerning inconclusive decisions of single judges are subject to the jurisdiction of the sessions of the people's judges. The judgments of the sessions count as final, with the exception of judgments decreed in excess of their authority or in cases not subject to their authority.

It is considered the duty of the sessions of the people's judges

692 to encourage cases concerning the dismissal from official duties and bringing to trial those of their members who permitted clear abuses in their judgments. The uyezd chief presents the decrees on this subject to the oblast government.

The delivery to the sessions of the defendants and witnesses is the duty of the village authorities.

Complaints concerning unfinal decisions of single judges are transmitted in a period of two weeks from the day of the announcement of the decision to the volost administrator, for presentation to the session. After the opening of the session these complaints can be transmitted to the session itself.

[695] The people's court is carried on aloud and publicly.

/207/ Extraordinary sessions of the people's courts are designated, by order of the governor, for the judgment of cases in which residents of various uyezds or volosts are involved , as well as for the review of intercessions of the people's courts and their sessions on the banishment of the persons under sentence. The extraordinary sessions are composed of the judges of those volosts from which the litigants come or the persons under sentence, with no less than one judge from a volost.

The designation of the judges for an extraordinary session, except for those elected by the litigants, is done by the uyezd chief. Judges who have participated in previous sessions within a year take part only at their own wish.

Extraordinary sessions of the courts take place in the presence of the chief of the uyezd in which the session meets, or an official specially commandeered for this purpose. The duty of these official persons is exclusively to see to the decorum in the place of meeting of the session.

The extraordinary sessions of the people's courts act on the basis of the rules established for ordinary sessions.

[693] People's judges, who are absent from a session, ordinary or extraordinary, without legally acceptable reasons, are subject to a monetary fine of 10 rubles, by order of the uyezd chief, which can be appealed to the governor within a period of a month. These fines go for the building of places of confinement.

696 The carrying into execution of the decisions of the people's court is laid upon the volost administrators and village elders, under the supervision of the uyezd chief. Copies of the decisions carried out, with a note of their fulfillment, are preserved with the volost administrators. Persons carrying out the decisions, as well as the uyezd chiefs supervising them, are subject to legal responsibility and the reparation for damages for slowness and improper action in this connection.

/208/ CHAPTER XI. The Oath.

In the most recent times the oath (dzhan, guman, ant, kasam) has acquired extreme popularity. In ancient times it was given only for purification from the charge of spilling blood (Aviz, of the Perovsk uyezd).

Only persons who have reached their majority can swear, because children do not understand the significance of the oath (dzhan kadryn bil'meydi). However children are permitted to swear by ignorant biis (Torgai).

The oath is rarely sworn in the Chimkent uyezd by the Dulaty and Chul'sirgeli clans (the steppe Sirgeli, of the El'bay, Yangabay, Akkungurdek, Aytbozym and Dzhaydak lineages), and the Bistangaly clan ("the five brands": Sirgeli, Isty, Oshakty, Dzhalair and Shaprashty).

The side which is required to swear eliminates several (the number is indicated in the bii's decree) persons or tents from the community designated for the oath, under the name of "disputables", whom it is impossible to choose to be among those to take the oath. Of the remaining number, the opposing side, i. e., the plaintiff and the defendant, "seize for the oath" (dzhan, dzhanga ustaydy), i. e., indicate the person who must "give" (bermek, utkuzmek) the oath.

According to Baymet Sagyndykov, in former times the side which was sentenced to the oath had the right to indicate persons, so-called kolshy, who themselves already chose who were to swear. But with the transfer of the Turkestan region to Russian dominion, this custom lost its force, as a consequence of which the number of fraudulent suits increased. (1) Sagyndykov suggests /209/ that if this customary law were introduced there would be far fewer false suits.

A time limit is established for the designation of those who are to swear. A period of time is also given for swearing the oath. The time limt for the choice of the juror is usually three days, if his community is a short distance away, or up to fifty days if it is far away, even extending to the return from the summer camps. The time for the taking of the oath is given for a longer period than for the selection of the juror, for in the former case, the period of time has the purpose of giving the juror a full opportunity to become acquainted with all the circumstances of the case and to know all the

1. As will be evident from the account below, the institution of the kolshy still exists in several places.

695 opinions for and against it, while in the latter case, the time period is only in view of the distance of the community to which a person must go personally for the choice of the juror. Letting one of the dates lapse means the loss of the case.

The chosen person is told of the place where he must appear for the taking of the oath at a certain time, indicated in the decree of the bii.

The extension of the period for the taking of the oath is permitted as is stated in one document, "in accordance with the customary law and the Shariat", for valid reasons, for example, because of the illness of the juror, attested by trustworthy persons. For the decree of the postpnement of this oath, which has not yet "gone rotten" (sasymaydy), i. e., has not become impossible, the bii establishes a special document (Perovsk uyezd).

According to Torgai, if the juror allows the time for the oath to expire because of great distance or an unfortunate accident, the court decrees the judgment of the case to be lost to his side. But if the juror appears immediately after the decree of the judgment and explains the reason for the delay, he is not deprived of the right to swear.

The refusal or the flight of the juror from the oath indicates that his side is in the wrong and loses the case, "falls", (zhygylady).

If on the day of the oath the juror announces that he is completely unacquainted with the litigants, has come there himself only recently, /210/ and could not investigate anything, and therefore will not accept the oath on his responsibility, his side nevertheless loses, for the juror should have announced this exceptional situation at the time when he was chosen or before the elapse of the period, and the litigants should have eliminated him as one of the disputables.

If a man has been chosen among the jurors when it is not known whether he is at home or not, the defendant must tell the bii of his uncertainty there and then. When, on the injunction of the bii, he has procured proof (isentirib) that the juror has departed, the defendant receives a longer period in which to bring him in, depending on the distance involved. If the plaintiff does not wish to wait a long time, they allow him to choose another juror.

When the person chosen refuses, on the basis that although he lives in the community from which the oath is required, he belongs in the registers of another community,(1) and has no wish to condemn

1. Such a man is called kurcheles.

or exonerate the accused by his refusal, a new choice of a juror is permitted in a new period.

If the heirs of a murdered man desire, for the wergeld, to put an oath upon four men, then from the side of the defendant the biis must designate four persons as kolshi, who are obliged to furnish four accepters of the oath at a place indicated by the judges, to carry out the swearing of the oath imposed on them. In this case, if even one of the kolshi fails to appear or does not leave his village within the designated time, the guilty side must pay the wergeld. In case one of the swearers of the oath does not appear on time, however, at the designated place, the petition of the seekers of the wergeld is abandoned without consequence. If one or two of the persons who have accepted the taking of the oath are ill or have gone away somewhere they must present certification of this with the seals of outside trustworthy persons. Then the biis must designate a second period of time with an indication of the place where the takers of the oath must appear. But if they also fail to appear the second time and do not take the oath, then the suit for the wergeld is considered to be fraudulent. In /211/ case one or two of the kolshi from the side of the defendants fail to appear in the time designated, the latter side must pay the wergeld, regardless of whether the takers of the oath appeared. If one or two of the kolshi falls ill or is absent in a distant place, they are obliged to present certification of this from outside trustworthy persons. Then the biis must designate a second period of time. But if the kolshi fail to appear in the second period, the side of the defendant must pay the wergeld.

If the juror confirms by his oath a false fact without knowing it, having believed his side, the punishment for swearing falsely falls in the future life not on the cheater but on the cheated. For this reason even before the period of the oath, the unjust side reveals the truth, gives up the object of the suit or proposes a peaceful settlement (bitim, tatulaspak, karyndas bulmak), to which the plaintiff usually agrees because he is in an uncertain state about the outcome of the case and is afraid that if he loses the suit he will be required to pay the court costs and the biilyk. Another motive for making peace is the fact that from the religious point of view an oath is equally dangerous for both sides: punishment will be visited not only on the person who swore falsely, but also on him who demanded the oath, from the side of the innocent party. This is why one often finds written in the biis' books: "the plaintiff was unable to allow the defendant to swear the oath, and his suit was left without consequence," or: "and he was reconciled for such and such a sum", or "and they became kinsmen" (again, karyndash bulub kaldy), i. e., friends. (1)

1. Sometimes they choose an only son as the swearer, in the hope that his father will not allow him to swear.

Conscientious biis themselves advise the litigants not to bring the case to an oath, but to yield to compromise, doing this with hints such as: you will not get the whole horse, but his hoof won't be lost (tulpardyng uzi bitpes, tyuyagy dzhitpes). Often, especially when the defendant does not deny the justice of the suit but he is poor, the biis say: "Forgive this suit. Embrace each other and become /212/ friends" (bu dauyngnan kesh, ikeauyng kushaktasyb dos bul); if one of the litigants has a son, and the other a daughter, they add: "or still better, become matchmakers: matchmaking consummates the friendship" (bal'ki kuda bulyngdar: dostyng tubin kuda ayrady).

The swearers themselves impose pressure toward pacification, halting on the road and threatening one side by saying they will appear, and the other side by saying they will refuse.

Often the pacification is produced on the basis of the return of the stolen article. There are also cases where the plaintiff, who has been made "the friend" (dos) of the poor defendant by the bii, receives nothing from him but is already ashamed, being his "friend", to appear before the biis with a claim (Auliye-Ata uyezd).

If an oath is shown to be false, the opposing side wins the case. In addition, in order to make amends for this sin, fines can be imposed in favor of the poor, from an atton to one or three toguz, depending on the sum of the suit. This is called "putting the soul in place" (dzhandy urnyna salmak). The reason why no strict punishment exists for false oath is that the swearer usually accepts the oath on the urging of his kinsmen, and not because of inner conviction.

Among the Kirgiz, after the ritual of the swearing of the oath is completed, in order for a new witness to prove its falseness, his oath is required and the oath of one of his relatives. The previous oath is the then considered "putrified" (sasyb kaldy), i. e., invalid. One oath is defeated by two. The side which has given a false oath is sentenced to a higher fine, and the person who swore is scolded and despised.

The ancient oath (according to Karamulla and others, of the Perovsk uyezd) consisted of 1) their leading the swearer around the mazar /place of pilgrimage or tomb/, or 2) the juror (dzhanga shykkan) coming out on a hill and summoning the receiver of the oath from the opposing side. A man came out from there with the words "I receive your soul", i. e., oath (aldym dzhanyngdy) and began to beat him with a whip. /Inserted page. Picture. Caption: Kazakh girl of the Perovsk uyezd. Drawing by Akhmatov. /*/213/ A battle began which often was transformed into a general brawl of all those present; or 3) their coming out alone from each side, armed with a spear, a sword, etc. It was presupposed that the one who was killed or forced to flee was in the wrong. (1)

> 1. Before the Russian court they now swear on the Koran. In the biis' books of the Perovsk uyezd one encounters the expression: "they were led into the mosque."
>
> "False witness under oath is taking place oftener and oftener, bringing profit to the mullahs, who for mercenary reasons have assured the population that by slightly changing the words of the oath they could make it very terrible in its consequences, or completely unfrightening." M. Gotovitskii, "Znachenie i obriad prisiagi u kirgizov" /The meaning and ritual of the oath among the Kazakhs/, Iuridicheskii Vestnik, 1885, May, p.192

According to Kunakbai, in the Auliye-Ata uyezd, the very appearance (2)of the swearer in court and his declaration that he is

> 2. According to Ibragimov, practically speaking, the essential circumstance among the Kazakhs is considered to be not the oath itself, but the journey of the chosen persons at the time determined to the place designated for the trial. If on the given day, the chosen persons were there before sunset, this was quite enough. The person on whose behalf they came won the case. The villages of influential Kazakhs and sultans especially are designated as places for the oath. In recent times they have often begun to designate a village for the oath in which there is a mosque, and they give them the Koran to kiss, forcing them to say the names of Moslem saints who are completely unknown to the Kazakhs.

ready to take the oath for the member of his village or his kinsman, is considered as the taking of the oath. Neither the Koran nor prayers are involved. They also know that sometimes they are sent to a cemetery to say a prayer.

* [Not reproduced -- A]

According to Umburek, the bii asks the person who is to swear the oath: "Did you come to swear?" (dzhan bergeli kel'ding me). Then he admonishes him to speak the truth, reminding him that it is sinful (ubal) to lie. The swearer answers: "I came to swear to his innocence" (agyna dzhan bergeli kel'dym). The bii ends it by saying: "May you have a long life! Be gone!" (yasyng uzak bulsun, bar kitever).

According to Abdrakhman, the bii asks the swearer: "Why did you come?" "I came for the oath." "Do you know (bilesin be) the guilt or rightness of so and so and do you believe that he took such and such?" (algandygyna inandyng ba). "He did not take it, and I have come to take an oath on it." Now reminding the opposing side that the sin of a false oath under compulsion /214/ rests equally on both sides (ike dzhakka birdey), the bii advises for the last time that the two sides be pacified without carrying it to the oath. When he receives a refusal he lifts his arms according to the Moslem custom and says the blessing, i. e., the words "alla akbar" and places the palms of his hands on his face and his beard. Then he says to the swearer: "May the days of your life be long. If the thief (i. e., the person for whom you took the oath) deceived you, may he die himself" (umr yasyngiz uzak bulsun, agar seni aldagan bulsa uruny uzi ul'sin).

Among the Kirgiz, they formerly led them into the mazar /place of pilgrimage or tomb/ to cut a branch. Now the oath consists of appearance and declaration before the bii. The bii says: "Have you given away your soul (oath) because he is clear and did not steal?" This question is repeated three times. When he has received the answer "I have given it" three times, the bii says: "Go get out of my sight!"

According to Torgai, the following forms of the oath are found.

1) In the Auliye-Ata uyezd, they are either satisfied with the form of the oath set down from the words of Umurbek and Abdrakhman, or they lead the swearer within the wall of a saint /'s tomb/ which is well-known, for example, Tekturmas, Auliye-Ata. There the plaintiff takes the end of a branch from one of the trees in his hands, and the swearer cuts off this branch with the words: "O Saint! Find which of us is unjust and kill him!" (e auliya, kay karamyzdy tap, at).

2) Formerly the kinsmen of the man who was to take the oath dressed him in white, black, red (the symbol of grandeur - saulat), blue, and in general in clothing of one such color, so that the swearer would stand out in the midst of all of them. They tied an owl (ukke) to his head, and led him to a high hill, where the plaintiff and his relatives had gathered from the other side. The swearer

demanded from his relatives: "Take your soul" (al dzhanyngdy). At that time small children too were swearers. The affair ended with a brawl without killing. No suit was made for wounds.

3) Formerly there was also a wager race between the swearer and the receiver of the oath of 40 paces. Both held each /215/ other by the hand. (1)After forty paces one turned to one side, and the other to the opposite side, and with this the oath taking also was ended.

4) The swearer (dzhan berguchi, dzhanga shykkan) and the receiver of the oath (dzhan alguchi, kolshi), go into a mosque, because this is the house of God (kudaidyng uyi) and say: "Find which of us is unjust" (koy karamyzdy tap) and then go out.

5) They take the Koran in their hands. In several places it is customary for the swearer to take the Koran and put it into the hands of the receiver of the oath, and in some places it is vice versa.

6) In the Perovsk uyezd, they sometimes dig a grave, on the demand of the receiver of the oath, as though for a dead person. In order to bring more fright to the swearer, they wash him and dress him in a shroud (keben), and then they lead him to the grave, out of which he emerges again through an opening.

7) In addition, in the Perovsk uyezd the oath takes place "by the Shariat and by the law."

The choice of the manner of the oath depends on the plaintiff. But the plaintiff always holds to the local custom (Torgai).

According to Absalyamov, of the Chimkent uyezd, the manner of taking the oath depends, by custom, on the plaintiff, who leads the swearer to the grave of some Moslem saint and forces him to stand with one foot on the grave itself, or to cut a twig from a tree growing over the grave, etc.

According to bii Sultan Kanaev, of the Chimkent uyezd, the biis propose to the person who is to swear the oath that he choose one of the following three forms of the oath: 1) to say "in the name of the all-powerful God" (billyagil' azim); 2) to take the Koran in his hands with words: "May the Koran hit (punish) me if I etc." (kurgan ursun, agar...), and 3) to cut off the branch (chibyk) of a tree on the grave of a saint, while a kolshi is holding the end of it. Now, however, the kolshi does not enter the wall of a Saint's shrine "from fear", and too the swearer does not /216/ cut off a branch, but simply

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1. Nevertheless this race was called by the reporter a wager race (yarysyb).

enters and then walks out. In the words of the bii, only the first two types are a real oath. The last type is a Kazakh habit (kazakchylyk, and actually this is not an oath (asyiy ant imes). It is only taken as an oath because the Kazakhs are content with it (kazaktyng rizalygy). Bii Sultan Kanaev does not know the type of oath called "oblation" (kurmandyk) described in Makovetskii, I, p. 74.

The biis and aksakals do not go to the mazars and such places of oath. The presence of the plaintiff and the defendant during the swearing of the oath by the chosen person is not obligatory and is not customary.

The receiver of the oath, i. e., usually the plaintiff, is not obliged to go to the selected person or to lead him. He only indicates his presence. But it is the obligation of the defendant, if the oath is from his side to present the swearer. They always present the swearer with his relatives (again tugan). Otherwise he would not go alone, being ashamed of what they would say of him, such as: So and so went out to take the oath (falyanchi dzhanga chykty). But the people urge him and follow after him, not permitting him to evade the oath. If the relatives did not appear, the oath would not lose any of its significance.

The defendant, when he appears at the swearer's, slaughters a white mare (boz biya) for him, which is called dzhan sadakasy, i. e., the sacrifice for the sake of the oath, or a sheep - for a small suit. He is accompanied by one elder from each lineage (tup) of the community of the swearer. In order to avoid frightening the relatives of the swearer, they clothe the demand in the following form: "We have appeared before you in the interest of the entire people. A certain accusation has been brought against him (the defendant), whether it be slander, or by enmity. For this reason we have been permitted to point to you. Will you allow him to be lost? We are all convinced of his integrity, and for this we have all appeared. You step forward and we will follow after you." (Yurtchilik turesinen sagan kel'dik: ya tukhmet menen, ya khusumet menen sogan munaday dzhengdzhal yabasty, sogan seni atattuk munauny kuyderesin be? aktygyna baremizning kuzimiz dzhetedi, beremiz sol ushun kelib otyrmyz. Sen aldymyzdan yur, biz songyngnan erelik).

/217/ If the person chosen to take the oath refuses "to go out" (chykpaymyn), the elders threaten to exclude him from the clan (again chiliktan ayrylada), i. e., if someone should sue him, none of them would present the oath on his behalf.

They always appear a day in advance for the oath.

First of all the oath is imposed on that side which has a true witness, who has publicly received syuyunchi for the discovery of the thief, in cases of theft. If there is no witness, the oath is imposed on the side of the defendant, as the weakest side. In addition, it can be required, for special motives: from the plaintiff's side, from the defendant himself, from the plaintiff himself, from the side which the plaintiff prefers (or rarely, the side the defendant prefers).

The oath is given to the side of the plaintiff in the following cases:

1) If it has a witness, as was stated above.

2) If the defendant does not enjoy favor in his village, for extraneous reasons.

3) When the defendant has already been caught in the act of a crime, which affects one part of the suit, or was under trial earlier and as a result he is no longer trusted.

4) When the plaintiff witnessed the commission of the crime personally, thus taking the place of a lawful witness. "I myself am a full witness of his theft" (kamil uzim gua men alganlygyna), he says in one of the documents of the biis' books of the Perovsk uyezd.

5) If the defendant is a woman.

The oath is imposed on the defendant himself ("on his black head", kara basyna) in the following cases:

1) When he is not yet registered in any group of ten of a taxable community, because he divided off from his family after the establishment of the official register of tents.

2) When the sum of the suit is so small that no other kinsman wants to submit himself to responsibility before God for such a trifle.

/218/ 3) If the case is such that no one can know the truth but the defendant. This would be, for example, when there were no witnesses of the entrusting of something for safe-keeping, or when the defendant refuses to satisfy the plaintiff on the grounds that his deceased father and not he borrowed from the plaintiff or owed him, or if the time the affair took place is so far in the past that no one can establish an opinion as to the justice or injustice of the suit.

4) When indecent circumstances have been disclosed in a trial. Here the oath by one person is to avoid staining the reputation of others.

The oath is imposed on the family of the defendant in litigations concerning matchmaking and other family accounts, on the basis of the fact that such relationships are known precisely in the family.

The oath is imposed on the plaintiff himself and on his family with the same motives as were just mentioned, only, of course, in

695 case it is unsuitable to give the defendant himself the single oath.

The indication of the side from which the oath must be presented is given to the plaintiff (iki dzhaktama) to choose, on the condition of the defendant's consent to this: 1) when the village of the defendant is so far away from the court that the judges do not know whether it is convenient for the plaintiff to go there to choose a swearer, and whether he would not prefer to permit the defendant to choose a swearer from the plaintiff's village, which is less distant; 2) when the plaintiff stubbornly continues to stand by his demand, regardless of the obvious groundlessness of the suit. By giving the choice to the plaintiff, the court wishes to give him a full opportunity to prove the justice of his suit, so that after the case is judged against him he will not complain that the circumstances of the oath were disadvantageous for him (Mikebai, Perovsk uyezd).

Among the Kirgiz, if the plaintiff has a witness (ayak), he is sworn himself and also one of his kinsmen (yanasha), i. e., they obtain two oaths. If the plaintiff has no witness, then one oath is imposed on the side of the defendant (tanbysh). If there were /219/ no witnesses of the transmission of money from one person to another, the dispute is settled by the oath of whichever one of them wishes to swear. If both sides are ready to swear the oath, it is given to the defendant.

According to Umurbek, during the examination of a case the bii first of all recognizes the opinion of the defendant concerning the manner of imposition of the oath which is desirable to him. The bii says: Do you agree to receive the oath from "this one" (i. e., the plaintiff), and pay, or do you want to present the oath and clear yourself? (sen osunan dzhanyn alyb mal tuleuge razy me sen ya dzhan berib kutuluga razy me sen).

In the Perovsk uyezd, for considereable lawsuits for a sum larger than 500 rubles, they designate two swearers, and for a sum higher than 2000 rubles, or for suits concerning wergeld they designate four.

In the Auliye-Ata uyezd, in cases of wergeld for a man they choose 4 jurors from 1000, 2000 or 5000 tent owners, but not beyond the circle of the forbidden degree of kinship. In cases of wergeld for a woman they choose 2 persons. In suits concerning the theft of 1-5 heads of livestock, one person from the close relatives swears an oath. For a theft of more than 20 animals, 4 persons swear (Chinybekov).

In September 1877, the biis of the Chimkent and Turkestan uyezds decreed: "We should try to settle cases without an oath. In designating an oath we should be goverened by the following: In cases concerning up to 19 rubles, the oath is designated to one man from the group of ten. In cases up to 76 rubles, to one man from the group of fifty. In cases up to 152 rubles, to two persons from the village of the defendant. In cases up to 500 rubles, to four persons from two villages which are near that of the person for whom the oath is to be sworn. In cases up to 1000 rubles, the oath should be sworn by four witnesses of four villages, with which matchmaking is not permitted. In cases of over 1000 rubles, and in cases concerning wergeld, four persons from the volost should swear. A volost administrator, village elders, and biis must never be chosen as jurors. Also tiuris and hodjas must never be chosen as jurors."

A man who is generally known and respected by all can take the place of two ordinary jurors (Perovsk uyezd and others).

/220/ If two persons from one clan are accused together, one oath from their clan is sufficient.

If two persons from different clans are accused together, one oath is imposed from the clan of each of them, for a juror consents to acquit only his kinsman. But if, in spite of their being from different clans, they serve one master, or live in the tent of one and the same person, or have a common traveling companion, then one oath is imposed on this master or travelling companion(Torgai).

The more serious the accusation, the higher the sum of the lawsuit, the more frequently the defendant has been under trial, the better known he is, then the larger the circle of the clan or the community which can be designated for the choice of the juror, so that under difficult circumstances he can be cleared only if he is really innocent, for his enemies, they say, and there are more of them in a large circle, do not decide to consider him guilty. For example:

For a suit of	They impose	On the degree of kinship
1-2 horses	1 oath	Third degree (ush ata).
3-4 horses	1 oath	Fifth degree (bis ata).
Wergeld	4 oaths for a man, 2 for the murder of a woman.	Seventh degree (yete ata).

The oath is not imposed beyond the circle of the forbidden degree of kinship.

When imposing an oath on a kin group, they always select a group of a degree of kinship of an odd number: 3, 5, 7.

The inconvenience in imposing an oath on a kin group lies in the fact that the defendant has to bring jurors from very distant places, for example, from Bukhara, within the period of time, although it is given with consideration of the distance.

Since in many uyezds the groups of ten, groups of fifty, villages /221/ and entire volosts consist of only one group of kinsmen (atalas), for example, a group of ten will be from relatives up to 3-4 degrees of kinship, a group of fifty from relatives up to 5-6 degrees of kinship (5-6 ataga keledi), the imposition of an oath on a kin group is almost the equivalent of its imposition on a tax community.

When both communities, the kin one and the tax one, do not fully coincide, the biis on whose judgment the imposition of the oath on the clan or the taxable unit depends, exploit this circumstance in order to obtain bribes. It is obligatory to impose the oath on the clan only in suits concerning wergeld and yesir, eliminating those lineages which are related to the plaintiff.

For drivers who do not live in their villages, the oath is imposed not on their community but on their comrades in the caravan (kosdas, from the word kos - the traveling tent of the drivers).

An oath is imposed:	Report from the Perovsk uyezd.	According to Torgai	According to the two Kirgiz: Kurpetai Dauletkulov and Daniyar.
On 10 tents	20 rubles	1 horse	1 horse
On 20 tents	-	-	2 horses
On 30 tents	50 rubles		3 horses.
On 40 tents	-		4 horses.
On 50 tents	100 rubles	2-3 horses	5 horses.
On 60 tents			6 horses.
On 100 tents	200 rubles		And so forth,
On a village	400 rubles and also about a fight.	4-5 horses	not more than one village(in cases of theft).

In the Chimkent uyezd, according to the communication of Absalyamov, in a suit /222/ concerning one horse one oath is given from a group of ten. In a suit for from 2 to 4 horses, one oath is taken from a group of fifty, with the elimination of two disputable persons. In a suit for from 5 to 8 horses, two oaths are imposed from the village. In a suit for 9-26 horses, two oaths are required, one from the village and the other from the volost, with the right to eliminate up to 4 persons from the village, and up to 8 persons from the volost. The plaintiff selects 4 oath takers from the volost of the defendant, for a murdered man, with the defendant being given the right to challenge up to 8 persons. For a murdered woman the plaintiff chooses two oath takers, one from the village of the defendant, and the other from his volost, and the defendant is not given the right to challenge anyone.

Where the kin communities coincide in general with the tax communities, as, for example, in Semirechie, the oath is primarily determined in the tax community. But where persons of different clans live together in one tax community, without having a basis for standing for each other under oath, as in Orenburg, Troitsk and in the Kurama uyezd (according to Torgai), the oath is designated from the clan, or, as they say, "tracing back to the ancestors" (ata kuub, suek kuub).

The larger the circle of the community out of which the juror is chosen, the larger is the number of disputables also. In a village there are usually 2 disputable persons in addition to official persons. The number and sometimes the names of the disputable persons or tents are recorded in the document with the note: "in addition to official persons."

The elimination of disputable persons is done by that side which presents the oath. The person who chooses the oath taker must be informed of the names of the disputable persons.

The disputable persons (actually kas, i. e., enemy or spur) are often: 1) enemies of the person who presents the oath; 2) mullahs, biis, official personages, and all superior persons to whom the suggestion that they take the oath for the sake of an inferior, would appear impertinent and 3)recluses, persons who are too young, guests and persons in in general whose opinions on a given question are incompetent for various reasons.

/223/ Tiuri, khodjas, volost administrators, biis and village elders are not chosen to take the oath for a simple Kazakh (Absalyamov).

According to bii Sultan Kanaev, a khodja can be chosen among the jurors in a suit among persons of the black bone. Khodjas are only eliminated among the disputable persons if they are at that moment

695 in dispute or in enmity with the cummunity from which the oath taker has to be chosen.

In the Kazalinsk uyezd, according to a report from E. A. Aleksandrov, khodjas are not freed from the oath, and in general no one is, except ishans. (1)

1. Formerly also members of the sultan's clan.

Among the Kirgiz, biis, manaps, volost officials and other persons of high standing are not excused from the oath. (2)

2. In Siberia, the agreement of the "disputable persons" who are eliminated is required before this can be done, and a voucher must be made to the effect that they or their clan are at odds with the clan of the litigant(Torgai)

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When it is necessary for someone to clear himself of suspicion outside of court, or to confirm his assertion or promise by an oath, they suggest to him that he say olda (instead of vallakhi, By God), or to drink up a quantity of water (su urttashi), or to step across a line scratched in the ground, or to make his statement facing the saint(äuliyaga karab aytchi), or to lick the sharp edge of a knife (pshaktyng yuzin yala) or to lick the end of a finger, facing the moon. They attach so much importance to this oath out of court that they end a dispute informally (Torgai).

675 In making contracts the oath is sometimes used: "May God punish whichever one of us breaks this agreement" (csu suzimizdi buzganymzdy kuday buzsyn). Or they lay a stone on the head (Makovetskii, I p. 49). This last custom no longer exists, according to Torgai, but they do say: "May your salt hit me, or the food which you have offered me, if I "etc., or: "I swear by the salt"(tuzingiz ursyn, nyanyngyz ursyn, tuzning khakynda). Swearing by the salt is a general Moslem custom.

In the conclusion of a pact for action against a common enemy /224/, the elders, yuzbashi, tubesh (standard bearer), and other honored persons in a party gather in one tent for a conference. They pledge themselves not to betray each other into the hands of the enemy, not to betray the total affair and not to hide booty, but to present it all to be divided. After this they slaughter a white horse 675 (bozat), or a grey one with a star on the forehead (kok kaska), or a white ram with a yellow head (ak sarybas), saying: "May the one who betrays this pact be killed like this animal" (ar kim sol sherttep taysa, sol malday soyylsyn). Here shert means agreement, promise, oath (according to Torgai and Makovetskii, I, p. 49).

Among the Kirgiz, in assertions by oath (kargych) they propose the licking of a knife and saying: May God, bread or the book (Koran) strike me, or else saying: May I be mayneke. The last expression, the meaning of which was unknown to the informant, bii Daniyar, is used only by women and children.

/225/ CHAPTER XII.

Fines: atton, muynyna kosak kutine terkeu and toguz. - Wergeld. - Corporal punishment. - Shaming. - Banishment.

Fines (ayb) are exacted in suits for theft, offense, fighting, 681 disturbing the peace and the general morality. (1)

1. The Perovsk uyezd chief, Mikebai and others, say concerning the fines that they are increasing the number of fraudulent suits, opened for reasons of avarice, and inciting the biis to judge falsely, acting in secret with the plaintiff. They are also bankrupting individual owners, and whole communities, from whom the fine is exacted when the defendant has not had enough property.

No fine is imposed in civil suits over debts and other obligations.

The fine goes to the use of the plaintiff, and therefore he can consent to a reduction. Sometimes the plaintiff asks only for the return of the stolen goods, waiving the obtainment of the fine and the expenses (the biis' books of the Auliye-Ata uyezd).

If after paying the fine, the defendant later clears himself of the accusation brought against him and presents the actual perpetrator in court, the fine is returned to him.

The best known fines of the customary law are the atton, the muynyna kosak kutine terkeu and the nine /toguz/. (2)

2. In the Kazalinsk uyezd the fines are usually of the following type: a) a chapan (long coat), which is customary for a slight

681 misdemeanor and goes to the use of the plaintiff; b) the atton (a horse and a long coat), which goes to the use of the plaintiff; a biilyk is not required; c) br-toguz (three horses, three camels, three cows), which is divided in such a way that one-third is forgiven or else goes to the kinsmen of the guilty party /sic/, one-third goes to the plaintiff, and one-third is taken as the biilyk; d) uch-toguz (8 horses and 1 camel; 8 cows and 1 horse; 8 sheep and 1 cow) which is divided in the same way as the br-toguz.

The biis can impose all three types of punishment for the stealing of livestock, at their own discretion, depending on the circumstances of the theft and how many times it has been committed. Now /226/ it has come into custom so much to impose muynyna kosak kutine terkeu for livestock stealing, that when this "customary law" is broken, complaints are filed. The atton is kept /ostavlen/ for small offenses, while the nine is for crimes against morality and for certain cases of fighting and mutilation.

On the basis of the proposed code for the administration of the Turkestan region, the biis can now, independently of the determination of payments for damages and losses, impose monetary fines on the guilty parties for no more than 300 rubles and confinement under guard for not more than 1 1/2 years.

When a stolen animal was been taken away from the thief by its owner or by his acquaintance, the thief was released after he had given a horse (at) and a long coat (tun) or a fur coat (ton), or other things equalling them in value, for example, a horse and a gun, and with this the case was ended. This fine went directly to the person who took away the animal and was the same sort of payment for him as the syuyunchi is now. As a result the atton is counted as a fine, but it is considered the lightest of the fines, if one does not count the astarisiz chapan, a long coat without lining, which practically signifies a peaceful settlement. The atton which is sentenced in court is sometimes received in the end in the form of one cow or even only one sheep.

The atton is exacted primarily for fighting without mutilation and for the theft of an unvalued object. If one object is stolen by several persons they divide the payment of the atton equally between them. If several objects are stolen by several persons, the bii can determine an atton for each object (Perovsk uyezd).

An attay, i. e., a horse and a colt is the equivalent in value of an atton (Sultan Daulet Bushaev).

An attuya (a horse and a camel) is sentenced, according to Torgai, for the rape of a bride (kalyndyk) after the kalym has been paid, before the wedding ceremony. This punishment can also consist of only one camel or only one horse.

/227/ The Kirgiz have the atton but not the attay or the attyuya, which are in general little known punishments.

The fine called muynyna kosak kutine terkeu is imposed only for the theft of livestock. For this, when the stolen livestock are being returned an animal must be tied to the "neck" of each one being returned, for an "addition", and another one must be tied to the "back" for "support. " (1)

The fine in the Perovsk uyezd for stolen livestock remains the same, even if the animal is valuable or pregnant, namely, the value which is given for such an animal of average (orta) value. Thus for example, the fine for a returned horse consists of 2 animals of 20 rubles apiece= 40 rubles. For a returned cow the fine is the same. For a returned camel, the fine is 2 animals at 40 rubles apiece=80 rubles. For a sheep, the fine consists of 2 animals at 2 rubles apiece=4 rubles.

In the Kurama and Auliye-Ata uyezds, according to Torgai, the value of the stolen animal is determined (kisedi) each time. But if it is impossible to find it exactly, they judge by the bazaar price (bazar narkhi) of the average worth of the livestock, and add not two animals but only one of the same quality. This fine is explained by the fact that animals of the fine can be younger, for example, according to Torgai:

muynyna kosak= 1 bisti (5 years old)

kutine terkeu = 1 kunan (3 years old).

According to Abdrakhman, a five year old camel was formerly the equivalent of 40 rubles, and each fined camel also 40 rubles, so that the total fine for the theft of a camel equalled 120 rubles. But now such a camel costs 30 to 40 rubles, depending on the bazaar, and

1. According to Aleksandrov, the terkeu is court expenses, sentenced by the judges. In the Kazalinsk uyezd these no longer exist. But in the steppe of the Orenburg dominion the biis receive a terkeu of 2 to 4 rubles above 10 % of the biilyk. In addition to this, the scribe there receives a kalamkhaky of 2 rubles.

681 in the fine is:

muynyna kosak= kunan atan (3 year old male).

kutine terkeu= taylak (a 2 year old).

/228/ The fines entered in Zagriazhskii, in articles 113-117, which are four times greater than the value of the stolen livestock, are explained by the fact that at various times the uyezd chiefs have proposed to the biis at meetings to impose high fines, in order to eradicate the passion of the Kazakhs for stealing. In the Auliye-Ata uyezd, for example, for 1 horse there was a fine of 8 horses, of which 7 went to the plaintiff and 1 for the biilyk. In the Chimkent uyezd, for one camel the fine was 40 tillias (including all expenses). In the Kurama uyezd, the fine for one sheep was 5 tillias (including the returned sheep, the fine, the expenses, the syuyunchi and bribes). (Abdrakhman).

According to Shanchi Chinybekov of the Auliye-Ata uyezd, nine heads of livestock must be paid for one stolen animal. According to Baymet Sagyndykov, the usual fine of muynyna kosak kutine terkeu is imposed in the Chimkent uyezd. According to Absalyamov of the same uyezd, for a stolen camel they return 2 mares and a two year old foal (tay), for a horse - 7 sheep, for a cow and a bull - 5 sheep for each, for a three year old horse - 4 sheep, for a good pacer - 25 sheep, for a racing horse - 75 sheep.

Absalyamov says further that for any kind of theft, the guilty party pays the victim the same thing that was stolen but seven times more, so that the stolen article should constitute the eighth part.

In the northern uyezds, where livestock stealing is still very widespread, the fines are particularly high.

According to Tilen Kyul'baev, in the Kurama uyezd the fines for theft are:

Stolen	To the plaintiff	Biilyk and fine	Total
1 cow	7 tillias	3 tillias	40 rubles
1 horse	40 rubles	20 rubles	60 rubles
1 camel	15 tillias	5 tillias	80 rubles
1 sheep	8 rubles	4 rubles	12 rubles
1 goat	2 1/2 rubles	1 1/2 rubles	4 rubles

/ Inserted page. Picture. Caption: The white bone Sultan Daulet Bushaev of the Perovsk uyezd. /[1]

/229/ The Kirgiz Kurpetai Dauletkulov says that for the theft of a five year old male camel they take:

muynyna kosak=kunan atan (3 years old).

kutine terkeu=tay tyuya (2 years old).

When the animal itself (malnyng basy, kuzi) has already been returned without a trial, in the Perovsk uyezd they demand an additonal fine by the court (biis' books). According to Abdrakhman, such a return usually means that there is already agreement that the additional fine can be only very insignificant.

The name of toguz as a punishment is known to all nomadic Kazakhs (kushpe kazak) from Orenburg to Bukhara and from Khiva to Troitsk (Torgai).

Each toguz, as the word itself indicates, consists of nine animals (kara). The best among these gives its name to the toguz. For example the tyuya bastagan (or bastatkan) toguz, i. e., "nine heads, with a camel at their head", consists of a camel, a stallion, a mare, a colt, a cow, a calf, etc. to a sheep. According to the honorable Kirgiz Mullah Asan, the same toguz consists of 1 camel, 4 horses and 4 cows, while for a small offense, it consists of 9 items, including animals and things, from a camel to a long coat. He says in general that when a toguz is exacted the court defines its content exactly. According to Khalmakammed of the Chimkent uyezd, the tyuya bastagan toguz can consist of 1 camel, 1 horse and 7 long coats.

The at bastagan toguz consists of a horse, a mare, colts two, three and four years old, a cow, a calf, a ewe and a lamb.

The siir bastagan toguz consists of a cow, steers two, three and four years old, a sheep, then lambs of various ages and finally a kid.

In place of siir bastagan toguz there can be domalak toguz, ie., rounded toguz, also called tokal toguz, i. e., toguz without horns, consisting of a rug and 8 long coats of various values, of which the cheapest must be worth a ruble. There can also be things, muyum (Sultan Daulet Bushaev).

/230/ In the Auliye-Ata uyezd monetary sums take the place of toguz. The value of three toguz together is determined as 175-200 rubles. In general, under the Russian dominion, the toguz is sentenced

[1] [Not reproduced -- A]

681 very rarely, and when it is, it is the less expensive type. Finally, the simple toguz are more frequent than the double or triple varieties. They are being replaced now by other fines, even by the atton.

Among the Kirgiz the toguz was formerly sentenced as a fine for mutilation, etc., but now they fine only in money.

It is asserted (Sultan Daulet Bushaev) that it was possible earlier to impose a sentence for theft of up to three toguz, namely: for the theft of one sheep, koy bastagan toguz, buydak bastagan toguz and ulak bastigan toguz; for the theft of one cow, siir bastagan toguz, kunan ukuz bastagan toguz and tay ukuz bastagan toguz; for the theft of one horse, at bastagan toguz, bie bastagan toguz, and siir bastagan toguz; for the theft of one camel, tyuya bastagan toguz, at bastagan toguz and siir bastagan toguz.

[684] According to Torgai, the chief cases in which one can impose a fine of three toguz at once are the following: 1) the abduction of a girl, with or without violation. She is returned with three toguz, if her father is influential, otherwise with a smaller number of toguz. If she has a bridegroom he demands the same exaction from her father for her unchastity. However it is now very difficult to obtain even one toguz for the unchastity of a bride because the father invariably declares that the pregnancy of his daughter was caused by the groom himself. In the Kurama uyezd they have completely ceased to file such suits and they take the bride even with a child. 2) If they do not wish to impose wergeld for the loss of an eye, an arm, etc., since all wergelds, including partial ones for mutilation are apportioned among the khundas, just as they are divided among the khundas themselves, even if the guilty person is solvent, in this case they sentence to a fine of three toguz, for the toguz are apportioned in the community only after the guilty person is insolvent and are not apportioned from the community of the plaintiff.

The above mentioned fines in livestock can be translated /231/ into money. In the biis' books of the Perovsk uyezd, in order to be exact they often record with the fines decreed in livestock, their value in money, especially with the large fines. In the south they usually fine directly in money. This custom exists as well in the Kazalinsk uyezd, as is evident from the order for the revision of the Kazalinsk uyezd of 1886 (1), in which it is said that in the extraordinary sessions of this uyezd, the calculation of the wergelds are to be made in rubles, and not in livestock.

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(1) Of May 28, 1886, No. 88.

4:Grodekov--206 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

In the Chimkent uyezd, according to Absalyamov, all the property (dzhasau) and money in litigations are translated into livestock (malga chaglab). 681

This opinion contradicts the following indications of biis from the same uyezd:

For theft it is customary to pay, including the value of the stolen article, a fine and all the expenses: 681 685

Theft	According to bii Sultan Kanaev	According to bii Kucherbai		
		Formerly asked		Now accepted
1 camel	40 tillias	Value of camel	10 tillias	20 tillias
		Muynyna kosak	10 tillias	
		Kutine terkeu	10 tillias	
		Pay of rider	1 tillia	
		Biilyk	4 tillias	
		Syuyunchi	4 tillias	
		To scribe (mirzakhaky)	1/2 tillia	
		Traveling expenses, food etc.	1/2 tillia	
			40 tillias	
/232/ 1 horse	20 tillias	20 tillias		10 tillias
1 cow	15 tillias	20 tillias		10 tillias
1 sheep, 3 years old	5 tillias	5 tillias		5 tillias
1 donkey	9 tillias (the bii himself had occasion to impose this fine for a donkey.			5 rubles
1 ruble	10 rubles. (This was aimed at stopping robbery. However he could not remember a case of theft of money).			

681 685 Bii Sultan Kanaev explains the lowering of the fines in the second column of the information from Kucherbai as follows: This happens only when the biis ask the plaintiff to forgive part of the suit because of poverty. They say "Where can a thief get such a sum? Would he have stolen if he had had means?". Bii Khalmakammed added that biis have recourse to this device who receive something from the thief.

It is not obligatory to impose a fine in money in the amount of muynyna kosak kutine terkeu for the theft of money (Perovsk uyezd).

According to Torgai, one view has it that for a theft of money a fine is imposed in the amount of muynyna kosak kutine terkeu. Another opinion is that a smaller fine is determined, namely: 1) if the stolen money is all found (tugul tabylsa), then in justice (insaf kylsa) there is no other fine beyond the biilyk and syuyunchi; 2) if the money is not all found and the defendant wants to give it all but cannot immediately, /233/ then the fine, syuyunchi and all the expenses are added together into one sum, equal to half of the money which was not found. For example, if of 20 tillias, 10 tillias are given up at once and 10 tillias remain, there is a sentence to pay these 10 tillias plus 5 tillias, totalling 15 tillias.

According to Kyul'baev, for the theft of 50 tillias, if the defendant does not deny it, they ask a fine of 50 tillias plus 10 tillias (under the name of sandyk khakysy, "for the coffer", i. e., for the plaintiff), plus 5 tillias (to the bii).

In the Auliye-Ata uyezd, for the stealing of things but not live-stock a monetary fine is imposed which is much less than the amount of muynyna kosak kutine terkeu.

According to Torgai, for the theft of a long coat and other things to the sum of 10 tengas /silver coin/, the fine is established at 15 tengas if the total stolen amounts to 15 tengas, the fine is 20; if the total stolen amounts to 100 tengas the fine is 120 tengas, etc. The larger the amount of the suit, the smaller the percent added to the fine.

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681 682 For murder, a redemption of "khun" /wergeld/ is customary, and in case it is not paid, the death of the murderer himself is asked, or that of another man from his clan. (1)

1. An interesting ritual of symbolic execution of a ram at the time the wergeld is received can be found

in Makovetskii, Pt. I, p. 71. This ritual does not exist 681
in the Turkestan region, as is evident from the words of 682
Sultan Kanaev: this is anarchy (nizamsiz), the act of
people who are not subject to any chief (ishbir khakimga
karamagan adamnyng esi).

Wergeld is paid and received not by a person but by a clan. 681
If the murdered person and the murderer are from one clan, then it is 682
paid and received by the lineage, if they are both from the same
lineage, by the sublineage, etc. For example, if one is of the Bisata 672
lineage, the other of the Yamanbay lineage (both these lineages constitute the Kutenchi clan, of the main clan of Kungrat), in the Chimkent uyezd all five volosts of the Bisata pay, and all five volosts of the Yamanbays receive the wergeld. The wergeld received, taking out 100 to 300 rubles for funeral and memorial services, is distributed among the volosts, then among the villages, etc. The close and distant relatives of the murdered person and the murderer, rich and poor, must pay and receive equal shares. Even though the clan of the murderer be /234/ far away or scattered over a large area, nevertheless demands are sent for the payment of their shares of the wergeld, authenticated by the affixing of many seals. Now the distribution of the wergeld received is not above abuse from influential persons.

Wergeld is not exacted when there are no kinsmen to act as plaintiffs.

According to Torgai, the rule "blood for blood" (khunga khun, kanga kan) was observed earlier in several places. Even now in the Kazalinsk uyezd the clan of the murdered person tries to commit murder in order to take blood for blood, but they are not permitted to do this, for people say: "It happened by the will of God." In general the custom of taking blood for blood no longer exists.

Now, if the community on which the wergeld is imposed is insolvent because of its small number of people, none of them is killed and the community is simply considered to be in debt. (1)

1. It is said that in Bukhara there is a custom of collecting alms for the payment of wergeld.

Those who draw together to pay the wergeld and also to receive it are called comrades in the wergeld (khundas). It is practically impossible to refuse to take part in the apportioning (shesken) of the payment of a wergeld. If one did, they would not give him a share of wergelds received and would not participate in the payment of wergeld for his own commission of murder.

681 If a small community, living in the midst of a community of many members, but not related to it, takes part by some chance in 682 the payment of wergeld for a murder committed by the large group, then both communities are considered khundas, and this numerous clan must 672 must pay for a murder committed by the small community. If it refuses, the small group reminds it that they once were khundas. If the large group is still not inclined to take part in the payment, the community which is under fine is left to take a copy of the judgment and to send it along with a demand for participation /235/ in paying the wergeld to the place where the rest of their clan lives, to their motherland, so to speak. At first these are unwilling to pay, and scold them: "Why did you go away from us", but finally they do pay nevertheless.

In Kurama wergeld is not exacted from the clan but from the family: from the father, the brother and the uncle (akesi ukesi, amekesi kuyadi). Formerly there was killing for insolvency.

In the Auliye-Ata uyezd the wergeld is imposed in this way: after deliberation between the kinsmen of the payer of the wergeld, a part is assigned to the defendant himself, while the rest is paid by his kinsmen within the degree of kinship to which it is forbidden to marry. They divide this part among them.

681 The amount of wergeld for a man is the same, whether he be a 682 sultan, a hodja, a guest, a thief, a child, an adult,(1) etc., in accordance with the proverb: "The wicked and the good are equal once after death (i. e., their wergeld is the same), and another time during life" (i. e., abuse can affect everyone equally) (yaman ksi yakhsy ksige ulgende br teng keledi, tirisinde br teng keledi).

1. In the article by Gotrovitskii, "Okonchanie del polumirom po kirgizskomu obychnomu pravu" /The ending of cases by polumir /cf. below/ according to Kazakh customary law/, (Iuridicheskii Vestnik, May, 1885, p. 194), it is stated that if the widow of a murdered man remains without means with a female child, and if the murdered man had no brother whom she could marry, then she must receive 50 horses, without any concessions. But if she is young and has a male child and consequently can count on marrying one of her husband's kinsmen, then when the case is decided by polumir (karyndas kyb) i. e., with the full confession of the murderer that he has committed the crime, the payment to the widow must be limited to 25 horses.

If one is to believe the claims of the sultans, for the murder 681
of a sultan or a hereditary bii the wergeld paid is one and a half the 682
usual amount, namely 6 yakhsy are added to the 6 yakhsy. (Communication of Sultan Daulet Bushaev).

For the murder of a woman, including one's own wife, half a wergeld is paid.

For a murder committed by a woman, full wergeld is paid.

For a murder committed in a drunken state, the wergeld is unchanged.

For unpremeditated murder wergeld is not customary, but only /236/ a gift of clothing and covering the expenses for burial and memorial services (asatau).

If the murder occurred in self-defense, this must be proven 681
before the plaintiffs in order to be freed from the payment of wergeld. 682
However it is still a disputable question whether wergeld should be
paid in such cases, i. e., when the murdered man was a thief, not 672
allowing himself to be captured, or some other criminal defending himself by arms against the rider who has been sent to arrest him, or a bandit who is the first to start fighting. The plaintiffs demand the payment of the full wergeld, offering on their part to pay the fine for the attack, fighting, stealing and in general the offense which is acknowledged for the murdered man. They support themselves by saying the defendant is entering a false accusation against the murdered man, in order to avoid paying the wergeld. According to Mikebai, wergeld must be paid for the murder of a thief, even if he started the fight, if he was not the first to use a weapon. Wergeld, however, does not need to be paid for the murder of a thief, if he was the first to begin armed resistance.

E. A. Aleksandrov reports from the Kazalinsk uyezd that self defense in case of the attack of plunderers and outlaws is permitted only in a measure which is not criminal. But if the defender strikes the attacker, even though unintentionally, and it results in death or injury to a part of the body, the person guilty of this pays wergeld, while at the same time the plunderers bear responsibility for the damage by them.

If the murdered person is an orphan living with his step-father, his clan demands nevertheless that wergeld be paid for his murder. In the absence of the clan, the step-father can demand wergeld in the name of the younger brother of the victim, but must put the wergeld received to one side, to be given to the clan of the victim on their first demand (Kurama uyezd). According to Khalmakammed

681 of the Chimkent uyezd, the mother may receive part of the wergeld at
682 the will of the kinsmen. She can pay part of the wergeld, if she wishes,
for a murder committed by this orphan.

672 If a servant of a rich man dies and his heirs /237/ seek wergeld from the master, the biis examining the case must find out as their first duty whether the man froze to death for lack of clothing, or died of hunger, or was killed stealing or while engaged in other pernicious pursuits. If it can be proven by the testimony of witnesses that the death was caused by one of the above-mentioned circumstances, then the owner must pay the wergeld. But if the death occurred for one of these reasons and a dispute arises because the side does not confess, then four persons from the side of the defendants must swear an oath, or if a woman has been killed, two persons.

According to the biis Sultan Kanaev and Khalmakammed, if a servant who is traveling in pursuit of thieves or enemies is killed, it is impossible to demand wergeld from his owner, even when the murderer belongs to a tribe like the Kalmuks, from whom it is unthinkable to demand wergeld.

681 For a murdered man, according to the communication of Baymet
Sagyndykov of the Chimkent uyezd, 1000 Shariat tillias are exacted
682 of 10 tengas each, and if one counts each tillia at 4 rubles, as is
customary, then it is 500 tillias or 10, 000 tengas. If it is paid in livestock, then 100 camels must be paid. Absalyamov reports for the same uyezd that 100 horses and 100 rams are paid for a murdered man, or 600 tillias in money. Mullah Shanchi Chinybekov of the Auliye-Ata uyezd reports that for a murdered man from one to one hundred years of age, the wergeld consists of 200 mares, and for a murdered woman from one to one hundred years of age, the wergeld is 100 mares.

There are cases in which influential relatives succeed in exacting 3-5 wergelds for one murdered clan chief. For example, in the Auliye-Ata uyezd a total sum of 1, 300 tillias and one girl was exacted as wergeld and expenses, from 500 tents, for the murder of an honorable personage of the white bone by the name of Yalangtash.

According to Sultan Daulet, the former wergeld for murder was of two types:

/238/

First Type

1) 1000 sheep = 1000 tillias = 2 girls.

2) 6 yakhsy, i. e., 2 slaves, 2 dromedary camels (nar) and 2 good horses. Wild animals such as a fox, wolf, antelope, etc. could be substituted for horses.

3) Kalyngelim : a rug of 50 tillias or 100 rubles.

4) Kara nar - i. e., a dromedary camel in black.

5) Kara chulak, at, a wounded horse, i. e., the horse of the murdered man, in black.

6) Sary yipek yaulyk, a yellow silk kerchief, i. e., the kerchief of a widow, with which she covers herself as she weeps for her husband.

Second Type

1) 500 sheep or only 500 goats, or 500 kids a year old.

2) 6 yakhsy, i. e., 2 dromedary camels, 2 horses, 1 gun and 1 wild animal (karankus).

3) A cheap rug.

4) A small dromedary camel, for example, a taylak.

5) A horse 3-4 years old.

6) Yipek yaulyk, a kerchief.

Now the wergeld is the equivalent of 1,000 rams or 2,000 rubles.

At the session of the biis of the Chimkent and Turkestan uyezds in September, 1877, the amount of the wergeld was determined as 2,000 rubles for a man and 1,000 rubles for a woman.

In the Kokandian time the wergeld was larger, namely 1,000 tillias for a man.

Other kinds of livestock of the same value can be paid in place of the animals mentioned.

Often the plaintiffs agree to a smaller sum. Baymet Sagyndykov writes that "if the litigants desire to make a peaceful settlement before the examination by the biis, at the admonition of the best /239/ people and biis, the case dispenses with an oath, and the plaintiff receives half the wergeld, in accordance with the customary law concerning peaceful settlements."

A daughter or female relative of the murderer can be given instead of the wergeld.

If the murdered person is not buried but left to be devoured by birds and wild beasts, the tyuya bastagan toguz is added to the wergeld, called "wergeld for the bones" (syuyagening khuny), for the plaintiffs are not satisfied by the wergeld and demand to be given the corpse as well. If the murderer agrees to the payment of the wergeld, but wishes to hide the corpse (syuyagen kursetpese), and this is found out, then he is obligated to send the body on a "dromedary camel in black"

681 682 (kara nar), covered by a rug, and to pay a fine of from one to three toguz, counting here also the camel with the rug. A bactrian camel can be given in place of the dromedary, and even only a horse. (Torgai).

Usually influential persons, aksakals, volost officials, etc. appear as trusted figures from the clan of the murdered person before the sessions of the biis, and they count out a considerable share of the wergeld obtained for themselves, under the name of travel and other expenses (Perovsk and Auliye-Ata uyezd).

Among the Kirgiz the wergeld is equal to 660 tillias. The receiver of the wergeld and his relatives to the third degree inclusive receive 300 tillias. He divides the remaining 300 tillias among the biis and other eminent persons, who are not related to him, because he fears their ill will "and they are used to receiving." The remaining 60 tillias go for the biilyk and various expenses. (Reported by bii Daniyar).

Everyone who has wounded or injured another is obliged, in addition to the exaction imposed by the court, to heal the injured person at his expense and to slaughter a ram to feed him. The doctor (taub) dresses the wound with the skin of this ram, and hits him on the wound with light blows, which constitutes a good sign (irim). For wounds and injuries which were unpremeditated or received in a dispute, only the healing and nursing must be paid. If the wounded person dies, /240/ a fine is exacted for the expenses of burial and memorial services, called "related wergeld" (karindas khun).

681 Wergeld is exacted in the following amounts for bodily injuries:

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Among the Kazakhs	Among the Kirgiz, reported by Kurpetai Dauletkulov.
For a light wound by a knife - from atton to at bastagan toguz.	10-15 rubles.
For a heavy wound, but not mortal - tyuya bastagan toguz. According to Umurbek, the biis are not supposed to examine the case until the safety of the patient's position is cleared up.	Compensation for the cost of the sacrificial offering (sadaka), made by the relatives for recovery.
For a wound resulting in death - full wergeld.	Full wergeld.

Among the Kazakhs	Among the Kirgiz, reported by Kurpetai Dauletkulov.
If an agreement (bitim) was made for a certain sum because of a wound which seemed light, and it was entered into a document, and then the injured person died, the agreement is invalid and a suit is opened for full wergeld.	
For fighting with injury to a leg or arm, such that they cannot move about freely, no more than 100 rubles.	30-40 rubles. The Kirgiz call such an injury dzhansirek.
For a wound of the head (bas aryisa) - atton	/no entry/
For a wound of an arm or leg, with the loss of its use - 400 rubles.	Up to 300 rubles.
For the loss of both arms or both legs - full wergeld.	200 rubles.
/241/ For premeditated blinding of an eye - half the wergeld(1) and if it is the victim's only eye - full wergeld. According to Absalyamov, for blinding one or both eyes - 50 horses and 50 rams or 330 tillias.	six members (alty san): 2 eyes plus 2 arms plus 2 legs equals 600 tillias equals one wergeld. Each of these members 100 rubles.
For the injury of an eye, from 200 to 300 rubles (Perovsk uyezd).	/No entry/
For biting of the arm, 25 rubles (books of the Auliye-Ata uyezd). According to Absalyamov, for mutilation of an arm or leg, as well as for the loss of these members, 165 tillias.	

1. At the session of the biis of the Chimkent and Turkestan uyezds in September, 1877, wergeld for a man's eye was established at 1000 rubles, and for a woman's eye at 500 rubles.

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Among the Kazakhs	Among the Kirgiz, reported by Kurpetai Dauletkulov.
For a finger cut off - one-tenth of the wergeld (Perovsk uyezd). According to Sagyndykov, also one-tenth of the wergeld, or 200 rubles, while for one joint-one-third of this sum, i. e., 66 rubles, 66 1/2 kopeks. Only for the joint of the thumb it is one-tenth of the wergeld = 200 rubles. This is because the thumb has only two joints, and the other fingers have three.	
For making crooked and for injury: 1) to the thumb - tyuya bastagan toguz (Perovsk and Auliye-Ata uyezds);	1) 30 rubles.
2) to the index finger - 2 attons, and according to Kunakbai - at bastagan toguz; 3) to the other fingers - for each, an atton or attay (Perovsk and Auliye-Ata uyezds). According to Umurbek, it is the same for all fingers - tyuya bastagan toguz.	2) 5-10 rubles.
For knocking out a tooth, according to Sagyndykov, one-twentieth of the wergeld is paid, i. e., 100 rubles. /242/ If all the teeth are knocked out - the full wergeld. For each of the four upper and four lower front teeth (kurektis) at bastagan toguz is paid (Sultan Daulet Bushaev); Umurbek reports that an atton, or a horse, or only 8-9 rubles are paid; according to Kunakbai, an atton is paid; According to Khudaykul, 25 rubles apiece; in the Kurama uyezd, for the front tooth of an old man, 17 tillias are paid. In the bii's books of the Chimkent uyezd, 20 tillias are paid for one front tooth.	If the tooth /242/ is broken in half by the blow -20-25 rubles. If an old man's tooth is broken by a blow - 4-5 rubles are paid.

Among the Kazakhs	Among the Kirgiz reported by Kurpetai Dauletkulov.
For eye teeth (akyl tis), according to Kunakbai, the same is paid as for front teeth.	The plaintiff must show a swelling of the gum (erin) to prove that the tooth was knocked out and did not fall out for another reason.
For each of the eye teeth and back teeth according to Sultan Daulet Bushaev an atton is paid or 50 rubles, according to Khudaykul - 10 tillias.	
For back teeth; according to Kunakbai, an atton is paid or nothing.	
For pulling out a piece of the beard - atton and an apology.	Nothing.
For cutting off the whole beard with a knife - at bastagan toguz, according to Sultan Daulet Bushaev; According to Umurbek, it is impossible to define it exactly, but less than for the loss of the nose, because a beard grows back.	Nothing.
For injury of the ear or the nose - from tyuya bastagan toguz to three toguz, according to Sultan Daulet Bushaev according to Umurbek, 100-400 rubles, but less for an ear at any rate.	The loss of an ear (chunak - earless) is 20-30 rubles.
/243/ For a man's loss of one ear or both, or of the nose, 50 tillias, according to Absalyamov.	/No entry/
For loss of the genital organ - full wergeld.	Not recorded.

681 According to the report of Mullah Shanchi Chinybekov, the wergeld for the putting out of one eye in a man is determined as
683 50 mares, and for the putting out of both eyes at 100 mares. If an oath is imposed, it is required of one person in the case of one eye, and of two persons, in the case of both eyes. Otherwise the customary wergeld is: for one ear - 1 camel and 9 heads of livestock; for 2 ears - 2 camels and 18 heads of livestock; for a nose - 1 camel and 9 heads of livestock; for a tooth - 1 horse and 9 heads of livestock; for breaking or mutilating one arm or leg - 25 mares; the same of both arms and legs - 50 mares; for the mutilation of the genital organ - 100 mares, and if an oath is given, it falls upon two persons from the clan of the defendant. For the same mutilation of a woman, half this amount is paid.

According to Sagyndykov, if someone cuts off someone's tongue, or hits him with such cruel blows with a stick that the victim loses the ability to speak, or loses his reason, or else if he cuts off the nose or removes skin from a place where hair grows, namely, on the chin, the guilty person pays full wergeld.

681 Abortion, as well as miscarriage resulting from the blows of the husband, remains unpunished.

682 For miscarriage resulting from the will of an outside man, a fine is paid depending on the form, sex and size of the fetus, ranging from several camels to half the wergeld. If the fetus remained alive for some time, even wergeld is paid.

Half as much is paid for a fetus of female sex as for one of male sex.

If a betrothed girl who is pregnant from her legal bridegroom performs an abortion because of shame in front of her father and the people, the bridegroom, if he discovers it, can bring both the bride and the men and women who also took part in the abortion to strict accounting before the people's court, which takes the side of the groom (Kazalinsk uyezd).

/244/ If someone strikes a pregnant woman and stillbirth results from it, the guilty person pays 100 rubles as wergeld, and if the woman herself dies from the blows, which must be proved, the guilty person pays the full wergeld for a woman. But if a woman gives premature birth to a living child, as a result of blows of a stick, and the child dies only later, the full wergeld must be paid for the dead infant, if it is fully proven that the premature birth and the death of the newborn child were the result of the blows. Here the wergeld is paid depending on the sex of the infant. (Reported by Sagyndykov).

Among the Kirgiz, the defendant in such cases justifies himself 681 with the words: "But did I pull the baby out of you?" However he pays for the miscarriage: 30-40 rubles for a fetus of 2 months, 40 682 rubles if it is 3-4 months old, 40-50 rubles if it is 5-6 months, 100 rubles if it is 7-8 or 9 months old.

* * * *

It is necessary to distinguish the corporal punishments administered 681 by the elders in the village in private fashion, from the official ones, decreed by the biis, which are an innovation which has arisen to 627 a slight degree in the steppe from the Kokand fortresses. Official corporal punishments are not practised now. In the Auliye-Ata uyezd the present biis do not remember an example, and only two instances can be found of it in the bii's books of the Perovsk uyezd. In one, there is a threat that in case the stealing is repeated it will be punished by the whip (durra). In the other, a fine is imposed on an inveterate thief, and in case he is insolvent - 25 strokes of the whip. In the opinion of Mikebai, this last judgment comprises an error: one of these punishments should have been determined categorically: either a fine, or blows with the whip.

Private corporal punishment does not excuse the culprit from paying a fine, but the official one does. According to Aleksandrov, /245/ a fine is substituted for corporal punishments only when the plaintiff expresses his consent.

In private corporal punishment, the number of blows of the whip (kamshi) or the stick (chibyk) are never counted, and the guilty person is beaten until he repents. But if he dies from the blows, wergeld is required for him. The biis do not accept complaints for private punishment for wrongs, for example, for adultery.

No one is exempt from corporal punishment if he is caught stealing, by position or by origin (white bone, elders, small children). 285 They usually sympathize with the old persons and small children and spare them, but if they are bound up and beaten, they cannot complain to the bii because of blows which led to illnesse Women who are caught stealing are not bound or beaten.

What we have called private corporal punishment can be called 681 taking the law into one's own hands, when it is particularly cruel. This 627, last concept does not exist among the Kazakhs or the Kirgiz. There 684 are cases in which they cut off the nose or kill a person caught in adultery. (1) It is said that at one time, the murderer of the adulterer

4:Grodekov--219 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

681 1. Among the Alagirtsy and Farsalag of the Vladikavkaz
627 okrug, if a wife is caught with a lover, her husband cuts off
her nose. Among the Kurtat and Tagaur peoples, the husband
684 kills the adulterer who is caught (Adaty Kavkazskikh Gortsev /Customary Laws of the Caucasian Mountaineers/, Pt. II, pp. 41-44).

and his own wife did not pay wergeld, while the murderer only of the former did pay wergeld. Taking the law into one's own hands exists even now. According to Lt. Colonel Pankratov, there was such a case during his service in the Chimkent uyezd. They placed a thief who was bound, on burning coals, and he was roasted there until the cords were burned through. A. E. Aleksandrov reports from the Kazalinsk uyezd that an outlaw is bound with a lasso to the tail of a horse or a camel.

According to bii Sultan Kanaev, before the coming of the Russians, they exacted a punishment 80 to 90 blows of the lash (durra) for adultery of a bachelor with the wife of another, and if he died under them, wergeld was not demanded. But if he was married, both he and the other's wife were killed, or else they threw the latter into a sack with /246/ a cover, or thrashed her in the sack with their feet. If she did not die after that, she was freed.

681 Mutilation by court order and execution were practised only by
the Kokandians. They were subjected to being torn apart by horses,
684 being hung from a gallows, (1) being stoned to death (sarsan, in place
688 of the Persian sen sar)

1. The informant had not heard of hanging two men from both sides of a camel, as it is stated in Makovetskii, I, p. 69.

of the Persian sengsar) - this last for incest and renouncing their religion(2)-

2. According to Staff Captain Grombchevskii, among the Kashgar Kirgiz the following types of tortures and lynchings exist: 1) they tie a cord around the head around the forehead, which they begin to tighten; 2) they bind the arms behind the back, and by twisting the rope draw the elbows and the shoulder bones together; 3) they throw the bound thief in front of the entrance to a sheep pen and let the sheep walk over him. The victim of this faints from pain.

and to being impaled on a stake (khada). (3)

Among others, the following punishments existed earlier, according to the report of E. A. Aleksandrov: a) the guilty person was laid on the ground in the middle of the village with arms outstretched and face up, and his arms and legs were tied to stakes driven into the ground for that purpose, after which a herd of sheep was driven over him. The size of the herd depended on the degree of his fault. If the person subjected to such a punishment was crushed to death, his kinsmen received no wergeld. (4) b) Execution by cutting off the head with a Circassian saber. Such a punishment took place with the consent of the sultan, and after the judgment of the offense by elders at a general council "maslyagat" (abbreviated: mastat).

* * *

He who is guilty of lack of respect for the fundamentals of the structure of the life, the clan, the family, etc., is subjected to the punishment of shaming, /247/ called "visiting of the people" (el aylantyrmak). They tie the guilty person's hands behind his back, smear his face with soot, put a cord around his neck or a piece of old felt (kurum) and lead him on foot around the village. One man drags him from in front, and from behind a rider drives him and beats him (Perovsk, Kazalinsk and Auliye-Ata uyezds and among the Kirgiz).

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3. According to an eye-witness, the Kazakh Babaev, in the Kokand dominion, in Yany-Kurgan, the border point between Russia and the Kokand khanate, two Russian Kazakhs were impaled on a stake for some fault, in the following manner: they threw the criminal on the ground on his back. Then several men held him by the legs, while two thrust the sharpened end of a stake into him, 14 to 21 feet long and as thick as a man's arm. Then they lifted him into the air and fixed the stake in the ground. Some time later a Sart rode up and hit the two condemned men on the head with his Circassian saber. Both died during the night.

4. According to the report of bii Sultan Kanaev, the driving of sheep over a criminal (ustinen koy aydaydy) happens only for theft from close relatives or adultery with close relatives, for example, persons of the same village. [685] [684]

681 In the Kazalinsk uyezd, the shaming in addition to this consists of the person who has suffered telling publicly of the crime of the guilty party.

Among the Kirgiz, the guilty person is led three times around the village, with an old felt on his neck, and he is beaten and forced to say: "I committed such and such an act (men falan ish kyldym), and this is the punishment for it (dzhazal)". After this they place him in a pit to rot (churib ulib kitedi). This punishment was practised under
[683] the Kokand serkers for: 1) robbery, discovered at the moment of commission, even though done for the first time; 2) adultery with
[684] another man's wife, under the same circumstances; 3) lack of
[689] decorum before superiors. For incest it was customary to stone people (tashbaran).

681 The punishment for an unrestrained passion for stealing was formerly to confiscate all the property (kanau, uruganau). The house
685 of such a thief (in the Auliye-Ata uyezd) was subjected to attack and looting (uyin chaub alyb malyń aldy), or he was given up to the Kokandians, who hung him. Now under such circumstances they establish a sentence to exile him in Siberia or to banish him (1) from his milieu, saying: "We have banished him from our midst, we will be ruined because of his stealing. Let no one defend him in court (ichimizden chykarduk, kyuymeymiz urlygina, dauyn ich kim sura-masun). After this the thief becomes homeless, and is not reckoned in any volost. (2)

681 /248/ The withdrawal of the parental blessing from children exists. This takes place in this manner: The palms of the hands are pressed together and then pulled apart from each other three times.

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1. The ousted person, excluded from his family and clan and therefore deprived of the support and defense of his clan, is called abrek among the Cherkes. A murderer, for whom his clan did not pay the "blood price" was made abrek primarily. Among the Mongols, exiles who departed from their kinsmen's clan and confederation were called ölöt or sabsars (Adaty Kavkazskikh Gortsev, pp. 359-61).

2. Two decrees of banishment from the community are given in Supplement No. 7.[1]

[1] [Not translated -- A]

The withdrawal of trust (isenimsizdik) is not imposed by the court but is a natural consequence of a crime. Every blameworthy misdemeanor is accompanied to a greater or lesser degree by a forfeiture of trust. 681

The Kazakhs, like the Kirgiz, did not betray criminals in their midst, for specific fines exist for crimes. But the Kirgiz sold criminals to the Kazakhs and vice versa, and also the Sarts sold them to the Kazakhs and Kirgiz for a ransom, i. e., a fine, the sum of which was not determined by custom but was designated arbitrarily. If the kinsmen could not pay the sum demanded, because of poverty, or did not wish to because of repeated stealing, this gave the right to kill the criminal.

* * *

/249/ Entering a tent.

To ride past the doors of a tent (aldynan yuru) and not behind it, is considered impolite. If a newcomer stops only at the very doors, having already passed two panels / reshetki / of the tent (yeki kanat kerege), they say to him scornfully: What do you think you are, a chief? 596

It is necessary to stop and tie the horse behind the tent, and then to call the masters with the words: Syuyles! Adam barma? (I wish to begin a conversation; is the master here?). But this custom is now observed less strictly.

If a horse tied up in front of a tent kicks a child, a fine is paid of 1/4 the value of the horse, i. e., 5 rubles (because the leg is one of four extremities), while if the child is killed, a full wergeld is paid. But if the horse kicked it behind the tent, the fault is laid to the child which went back there. Even if the horse kicked it to death, only the value of the horse would be exacted, or if there were aggravating circumstances which were the fault of the horse's owner - 1/2 a wergeld. 672

Entering a tent in the absence of the owners (otagasy), by one who is not a relative, is not regarded as nice. He is reminded of the fact that in case of loss the suspicion will fall on the person who has entered.

Unfastening the doors (of reeds - esik, of wooden folds - ergenek) in the absence of the owners is regarded as an act which

576 is worthy of note.

On solemn occasions, entrance to the tent is made in order of seniority.

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The support of the poor.

735 The aksakals collect food for the poor, exhorting everyone to give tengry khaky or kongsy khaky, i. e., alms /250/ to which the beggars have a right in the name of God or in the name of being in the neighborhood, even though for a short time, especially since as they wander about a great deal they will spread the fame of the benefactors in distant places. Those of the poor who have the strength to walk about the world beg for alms themselves. The customary law does not prohibit mendicancy. Women give alms with special eagerness.

In the belief of the Moslems, the prayers of the poor are heard by God. Altynalma dua al, dua altyn imes me? "Do not take gold, 732 take a prayer. Is not a prayer the same as gold?" (1) The blind, cripples, etc. live with their relatives, who are forced to support them by the aksakals and biis on the basis of kinship. They say "this defect is from God." But if the kinsman himself has nothing, he leads the other about the world.

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Clergy and schools.

346 There are no large mosques in the steppe. They are organized in buildings (tam), but not in tents (uy). The namazi-dzhuma, the solemn divine service, is rarely read in them.

793 The Kazakh imam (prior), when he has finished studying at the religious seminary / medrese / is invited by someone who has built a mosque, or by that person's heirs. He is not promised a specific sum as an income. The income of the imam consists 1) in the offerings of the parishioners in natura (astyk) at the time of the harvest, to the amount of one-tenth of the harvest; 2) in dona-

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1. Proverb.

793

tions (kudai or khuday yolyna) in small livestock, on various occasions, and 3) in the five kopek collection made from each person when the parishioners come to the breaking of the fast (urazany bittir), the day before the holiday, or on the very day - not later. The imam buys an animal on account of this collection in order to ragale everyone (kudai).

The muezzin (sufi) is usually a literate Kazakh /251/ in the service of an imam. The parishioners pay him nothing.

The Kazakhs had no local or general annual holidays. Now they celebrate both annual Moslem holidays, Uraza-Bairam and Kurban-Bairam, on which they arrange races and kukbure. 796

There are very many schools (mekteb) in the steppe. In every Kirgiz volost of the Auliye-Ata uyezd there are from one to four schools maintained by wealthy people. 871

They read the same books as the Sarts. The schools are in buildings or in tents. The owner of the latter invites a teacher (molda damulla) for his children for a year from the Kazakhs. He gives him a horse, a long coat, etc. The neighbors send their children to this mullah for the payment of one tillia per year. 875

The clergy and the teachers, if they are not Sarts, are tried by biis. Bothering them with the oath for outsiders is avoided. 793 875

They are not rejected for bad behavior which is known by rumor. For being convicted in court they forfeit trust or their places.

Casting lots.

When a dispute arises in the division of land or meat over the inequality of the parts, they "throw dice" (chub tastaydy). Each of the participants in this division lays a twig, which he has separated from others by cutting it off, into the skull cap of an outside disinterested person, who turns around so as not to see which twig belongs to which person. Then this person takes out the twigs and lays them on the corresponding sides. It is not customary to declare the lots invalid (chubti buzbaydy). 627

/252/ Wagers

526

The Kazakhs lay a wager (chirt, sert) as to which of two persons is right, or else on the accomplishment of something, for example, not sleeping for a certain number of days, etc. In a combat or in a competition of two singers the observers, divided into two parties, sometimes lay a wager on the victory of one singer or the other. The

525 stake (tiku) must be paid to the winner, for the conditions of a wager are inviolable (chirt kaytpaydy). If they staked a sister and she is ashamed to marry because of a lost wager, then her kalym can be paid in her place, or tyuya bastagan toguz, often equalling the value of a kalym (Turgai). In the Kurama uyezd they dispute about an object seen at a distance, for 2-3 rubles. Bii Sultan Kanaev compares wagers to games of chance, for example, cards, which incidentally are known only to urban Kazakhs.

Kukbure.

526 They put on kukbure (they skin the kid) on joyous occasions (1)

1. According to the Kazakhs, in Bukhara kukbure takes place also on mournful occasions.

such as escorting the daughter with her bridegroom, the arrival of the bride at her father's house, the birth and the circumcision of a son, Moslem holidays and the arrival of a welcome guest.

The person arranging the entertainment throws the kukbure, i. e., a kid or another young animal on the ground, with its head cut off. Those participating in the game bend over without sliding off the horse, and one of them lifts the kid up and races away, while the others chase him, take it away from each other, and beat each other /perebivaiut/. Outsiders who see the game from a distance, mount their horses and take part in it. /Inserted page. Picture. Caption: A Kazakh steppe beggar of the Perovsk uyezd. Drawing by V. Olivetskii./ 1/1 /253/ The victor is he who succeeds in carrying the kid to some village where he throws it before the tent of the person whom he wishes to honor. This man, in his turn, either gives a kerchief or skull cap, etc., for the kid, or gives a new kid for the continuation of the game.

[1] [Not reproduced --A.]

Bayga.

The bayga is arranged primarily in the autumn, when the livestock are fatter, the people are free of work and provisions are cheap. Among the Kazakhs, occasions for the bayga are escorting a bride, the birth of a son, funerals and memorial services; among the Kirgiz it is only the latter occasion.

The bayga differs from the kukbure in that they race in only one direction all the way to a certain goal or sign, and the first to reach the goal receives prizes. The bayga cannot be without a prize (oldzha).

The goal consists of a stone or clay curbstone (chartak, sure, belgi) or else of a tomb itself (mola).

Both invited persons and univited take part in a bayga. (1)

1. Uninvited persons have free access to all celebrations of the Kazakhs. They invite people the day before saying: "Come tomorrow with the people (el menen)"

The distance can be 2, 4, or 6 tash, (2) in keeping with the

2. A tash = 8 versts /5 1/4 miles/.

value of the prizes established, and the quality of the race horses.

First of all they go to the point of departure quietly (yelib baraddy) with 2-4 conductors (aydauchi) who are armed with sticks in order to prevent the racers from starting at the wrong time. When they have reached the place, which was determined in advance, everyone is given a short rest, and then after a signal (bata) by the conductors of alla akbar, "God is great", they are all allowed to race at once back along the same path by which they have come. /254/ An hour after the departure of the race horses, the three year old foals (kunan) depart in the same order, but for a shorter distance (for example, 2 tash instead of 6 tash). The kunans arrive much sooner than the race horses, and therefore the prizes for the kunans especially are less valuable.

When the audience sees the race horses at a distance, the owners of the race horses ride out to meet them and encourage them (kuterme) and accompany them to the goal.

Those who reach the goal throw their skull caps, fur hats and in general what they have on their heads before the person who stands on the curbstone or tomb and gives out prizes. After all the race horses have arrived, these objects serve as proof that the goal has been reached.

If 20 race horses participate, only 7 prizes are designated. If there are 100 or 200 race horses, then there are 20 or 30 prizes. The first to reach the goal receives the highest prize, the second the next, etc. The prize can consist of livestock, long coats, pieces of matting and money. If the first prize is a horse, the last is often a goat or a kid. If the first prize is 100 heads of livestock, the last is 10 heads. They say that in the Auliye-Ata uyezd, Yamankul at the funeral of his father gave a prize of 1,000 rubles, and a year later at the memorial service he again arranged a bayga. In Chirchik, Taylibai gave several prizes, of which the first was 4 camels and 100 rubles in money. They reached the goal only on the second day.

According to Sultan Daulet Bushaev, the first prize is often tyuya bastagan toguz, consisting of a camel, a sealskin, a long brocade coat, a horse, a long coat, a sheep, a lamb, a goat, a kid. The second prize is not nine objects but a smaller number. The last prize is often a long coat. Where guests belonging to various clans take part in the races, the competition is seen not as a competition of individuals but of clans. The prize is received not by the victor, but his clan, which divides the prize among its members, or else gives it out to the remaining clans. For this reason the war cries of their clans are shouted in a bayga.

/255/ The following rules exist for races.

For the loss or death of a race horse, occurring during a race, it is customary to pay the losses without a fine. They evaluate the horse, and if they know that so and so much was given for it, and the owner demanded so and so much, they take the average between these. An owner who does not agree with this evaluation can present an oath from his clan on the justice of his own evaluation. The owner of the horse, taking into account that the same thing would have happened to it if he had been riding it himself, can agree to receive the prize won by this horse, instead of its value. The prize is adjudged by the biis, instead of the value of the horse, in a case where the horse dies immediately after reaching the goal, and not on the next day. However they can also sentence the payment of the value of the horse and beyond that a certain part, either one-third or one-fourth of the prize won (Torgai).

If two horses reach the goal at the same time, the prize can be divided in half. In case this is not agreed to, both horses are allowed to make a second run, and the first to reach the goal receives the entire prize, and the second receives the next prize following the other.

They do not have hired jockeys, and young men from among the kinsmen and acquaintances are allowed to race the horses. If one of the riders in the race dies, the owner of the horse gives his relatives the race horse with the prize it won instead of wergeld, and bears the expenses of the funeral. But if the owner of the horse does not wish to satisfy the relatives of the deceased in this way, they can demand wergeld on the assumption that he can never prove by witnesses or by oath that the death took place without people being at fault. If a boy offers to race himself and is killed during

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the race, wergeld is not paid.

At Kirgiz funerals they arrange single combat, called seis. Two young men (batyr) on good horses, armed with spears, try to push each other out of the saddle and down on the ground. Sometimes two women fight each other in this way. The victor receives a prize: 9 animals /256/ (tyuya bastagan toguz) among the rich, and 5 or 3 animals among the poor. The winner of the prize does not divide it with anyone.

Wergeld is not paid for death or mutilation in this competition.

Burials and memorial services.

764

A man who dies (1) during the night or in the morning is buried on the next day. One who dies in the evening is buried in the morning. In general the burial takes place as soon as all the close relatives gather for the ritual of the burial.

The deceased is usually carried on a litter of tent panels, /kerege/ if the grave is nearby and on a camel if it is far away.

Before the corpse is placed in the earth a prayer (iskat, pid"ya, daur, daur aylantyrady) is read. They give an animal to the mullahs to be divided among them and they also give to one of the poor people present, who is called mustakhikk (Perovsk uyezd).

According to the communication of Torgai, immediately after the corpse has been washed, they lead a camel up to it from the right side, and throw the bridle over the corpse to the mullah, who is sitting on the other side, saying to him: "We have designated you for the cleansing of sins by prayer (namazning kafaratiga seni koydyk). Do you take upon yourself the sins of the deceased for not performing (kaza) the prayer five times daily?" The mullah answers three times that he takes it, and receives a camel or a horse. This ritual can be carried out at first with a camel, then with a horse, a bull, finally with a ram. When they have no mullah, this ritual, called daur, is carried out by a kinsman.

After this the ritual of burial (dzhanaza) is carried out, for which /257/ the imam receives a sheep or another reimbursement. For reading the Koran after the funeral the mullah again receives a

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1. The custom entered in the Budagov dictionary, under the word zhyrtu, that the Kazakhs tear the clothing of the dying person in order to relieve the agony, is not known among the local Kazakhs.

764 gift. Praying with beads the mullah turns back one bead for every year of life, excluding the first 13 years of life, for a person does not commit sins until he is thirteen (gunaga batpaydy). Nothing is cooked in the house of the deceased person for five days, according to Mikebai, or 3 days, in the Auliye-Ata uyezd. The neighbors provide this house with food.

765 The kinsmen slaughter an animal and give a feast on the seventh, fortieth and hundredth day and on the anniversary of the death. On the seventh day the clothing of the deceased is given to the person who washed the body. Now on the advice of the mullahs, as Mikebai thinks, they have begun to give them on the day of the death.

764 Among the Kirgiz the married daughter comes to the funeral with her husband and father-in-law. If they live far away, they appear a month later. Their horses are tied up by outside persons of the village of the deceased. They say a prayer, like "God is great; may He have mercy" (Alla akbar rakhmet kylsyn). At the funeral they arrange a bayga but not kukbure. If the deceased was an old man, they also give out yirtich. The rich even give a long coat to each related lineage (uru). No food is cooked in the tent of the deceased for three days. The food is brought by the neighbors. If they wish to cook before the three days have elapsed, they must move the tent, even though it be for a short distance. Otherwise the angel of death [776] Azrail suffocates the deceased, and from this the tent becomes stained with blood and polluted (makrukh). The memorial service on the 765 seventh day is called khatmi kuran (the full reading through of the Koran). They slaughter an animal. The memorial service on the fortieth day is called kyrkach, and for this they slaughter a sheep or a mare. The memorial service on the anniversary of the death is called chungach (great feast). They slaughter many animals, arrange a bayga, throw a black kerchief into the fire and the black clothing of the widow, allowing her to marry. (1)

1. According to a communication of E. A. Aleksandrov, a black kerchief is set out on the tent of the deceased person for the course of a year.

764 /258/ Not all widows know how to lament, (1) and for this

1. When something is denied, they use the saying, taken from the denial of the wives of knowing how to lament: "I do not know laments; let the woman who knows laments have

reason wailing women (yilauker khatyn) are invited to the funeral. This woman never sits on the ground but on a bed or on something else. She supports herself with both hands at her sides and leans her body forward. Among the Kirgiz she must sit on the ground turning her back to the door. She leans her left arm on her left leg which is bent under, while the sole of her right foot is on the ground. The elbow of her right arm is on the knee of her right leg, supporting her cheek. Her lament concerns the activity, trade and wealth of the deceased. The woman who weeps for her husband wears a black kerchief on her head (kara yaulyk). A woman who weeps for another man, for example, for her son, wears a white kerchief. (2)

The kinsmen of a wealthy man spend up to 1000 tillias for the regalement of the people at the funeral and memorial services (assu, asatau). The poor spend less, depending on their means, but it is impossible to dispense with this ritual for shame before the people.

According to I. I. Ibragimov, (3) there are never sumptuous 765 memorial services for a woman. However, Torgai arranged a memorial service lasting three days with bayga for his grandmother (ul'kun sheshem). Although memorials come at all times of the year, they are often more gala (ul'kun as) in the autumn.

Poor people, arranging modest memorials (kichkine as), send a messenger (shakyrushi) on the very day of the memorial and invite people only for one day. Bayga can be arranged for this day, and a combat before the arrival of the race horses. A singer (dzhirchi) who is invited or comes of his own accord does not sing during the day, but only in the evening and at night.

The rich announce the event earlier and let people know the name of the place /259/ where the village is to be found, the day of the uchakkazu, on which it is customary to "dig hearths"; the day of malsoyu, on which they will slaughter; the day of as beru or batasynoku, on which there will be a feast and prayer, and finally the day of atchabu, the day of the races. In the summer each guest

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her husband die" (yilaudy bil'meymen, yilau bil'gen khatynnyng bayi ul'sin).

2. There are laments (zhylau) in Supplement No. 9.1/
1 [Not translated -A]

3. "Ocherki byta kirgizoz" /Studies of the life of the Kazakhs/, Drevniaia i Novaia Rossiia, 1877, No. 9, p. 51.

765 tries to bring the best kumys /mare's milk/. The kinsmen bring gifts, aza. Tents are set up for the guests, 50 to 100 steps from the village, one for every lineage, since only the best people from each lineage come and spend the night. Those who do not find a place in the tent come in by turns for the regalement. At the memorials all the things of the deceased are hung up in the tent on ropes: clothing, saddle, whip, gun, as the appurtenance of mourning (tuldab kaydy), while the widow sits on a bed with her hair loose, surrounded by lamenting women. (According to I. I. Ibragimov and Torgai). They play on the zurna /type of oboe/ at memorials among the Kirgiz.

[764] A traveler who dies on the road is buried by passers by with a short prayer. If the kinsmen find the body of their relative, already decomposed, they scrape away the flesh with a knife, collect the bones in a sack, and carry them home, wash them, close them in a shroud, and bury them according to the ritual (Perovsk uyezd).

765 682 Guests who are returning from a funeral are called syuyakchi, in distinction from ordinary travelers (yulauchi). There is a larger fine imposed for harm of syuyakchi. If the attacker denies his attack, but there were other witnesses of this fact, for example, witnesses from among the other syuyakchi, the attack is then accepted as proof of guilt in the murder of the deceased, and no oath is required. But if the defendant does not deny the attack but does deny the murder, then an oath is customarily imposed on this matter.

However if there is no suspicion of murder and if the attacker does not succeed in taking anything and does not inflict any wounds, there is no suit on a general basis (Torgai).

According to bii Sultan, in case of only one attack without any other evidence, this cannot serve as proof of guilt of murder.

765 /260/ In the Perovsk uyezd the syuyakchi each bring a vessel (sava) of kumys with them to the funeral feast. Before their departure horse fat (kacy, kyuyumshak) is placed in their empty vessels, with the words: "so that your vessels will not be returned empty" (savangyz kuru kaytpasyn).

The host of the funeral celebration takes the role of a guest himself, giving the presiding place at the feast (zhyinding biiligi) to an aksakal or bii kinsman. The cooking and serving of the food is taken on by one young kinsman who is called tavakshi.

The graves of different clans are placed in the cemeteries (mazar, kurum).

The cemeteries are located on hills and high places with firm ground, where water from snow cannot destroy the graves. Over the

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graves of the rich they build cells with a cupola and small minarets, with an enclosure. The clan brands are often carved on the tombstones.

The graves are usually visited on Thursday. When they reach home, they order the reading of the Koran.

/261/ Proverbs and Sayings (1)

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1. In part directly collected by A. A. Divaev; in part borrowed from the chrestomathy of Liutsh and from Materialy dlia statistiki Turkestanskago kraia/Materials for the Statistics of the Turkestan Region/ (Pt. II, the article of I. I. Ibragimov).

1) He who has the khan as his protector does not think of riding around the country in a boat.

2) You cannot cover the mouths of the people with a sieve.

3) When the population is sparse, pigs get to the top.

4) An insult inflicted by an outsider is easier to bear than one received from one's own.

5) If a bad man is given power, the stick will never go away from your head.

6) If you have a good mallet you will even hammer a felt stake into the ground.

7) Every scholar has his mistake.

8) Oh! Even if I had millet and salt I would boil kasha, but it is unfortunate that there is no butter.

9) If you have not seen water, do not take off your boots.

10) Shame the miser for his generosity.

11) The wind smashes mountains and stones, while man is damaged by calumny.

12) He who has not experienced misfortune cannot appreciate tranquility.

13) A good youth never gives away a secret.

14) To entrust an affair to a fool means to lose the end of the thread.

15) Do not expect good from mankind.

16) A person with black ancestors is not whitened by washing; a born fool cannot be corrected by teaching.

/262/17) He who speaks at the wrong time dies without being ill. (1)

1. I. e., it is necessary to be cautious in conversation, for one word spoken in excess can lead a man to ruin.

18) While the ax is getting ready to chop down, the tree rests.

19) If you make a friendship with a good man, your name resounds far and wide, but if you do it with a bad one, you receive kicks in the sides.

20) What is heard by two will become known to seven (2) parts

2. By ancient story, there exist 7 parts of the world.

of the world.

21) The master of golden deeds knows the value of gold.

22) The lord is the sun, alike for all.

23) Words which have passed through thirty teeth, go out to thirty clans.

24) If you meet a good youth with bread and salt, he will glorify your head with good.

25) The horse gets fat from good grass, the deceased from the lines read from the Koran, the highly placed from flattery.

26) A dog brings help, but a woman misery.

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27) The person who has eaten his fill says that karty(3) has a bad smell.

3. Karty is fat horse intestines, considered by the Kazakhs to be the most delicious dish. [262]

28) The tops of the shrubs do not move until the wind blows.

29) The hungry child does not play with the full one.

30) You do not drain a lake by dipping from it with a spoon; you do not destroy a population by stealing.

31) A hint to the good man, a stick to the bad.

32) A population living in agreement does not become corrupt; clothing well sewn does not wear out.

33) A country which has no elder is like a body without a head.

/263/ 34) A bull with cow's horns does not have strength; a cow with bull's horns does not have milk.

35) Do no pursue something you will not overtake; do not grumble over something which was not fated for you to receive.

36) Words are born from words. If there is no talk, then where can they be born?

37) A good man does not meditate about giving away to the lowest. A brave man does not calculate the large numbers of the enemy.

38) A man who has a woman's voice is not capable of marital life.

39) The ignoramus does not see his own fault, but notices the faults of others.

40) He who trusts in God flies like a bird, and he who relies on his horse will fall off it unexpectedly.

41) A just ruler resembles the early spring, and an unjust one resembles the winter.

42) An unlearned person is like a canal without water, and a a learned one is like a river.

43) A woman without a conscience is like food without salt. A young man without decorum is similar to a horse without a bridle.

44) A false word destroys the truth.

45) A bad man is usually evil-intentioned, a good one is usually well-grounded.

46) If you are honorable, do not make friends with a rogue.

47) Without death, the heart does not come out.

48) A wise enemy is better than a stupid comrade.

49) When a little bird is driven mad, it flies in chase after the golden eagle.

50) A fish lives by water.

51) When the dog grows fat he eats the owner.

52) Uzbek, be careful; do not call your neighbor a thief.

53) Water is muddied from the top.

54) It is better to walk than to ride on a bad horse; /264/ it is better to be a bachelor than to marry a bad woman.

55) A home with children is a bazaar, but without children a mazar. (1)

1. A grave.

56) The raven plays with the hawk and incurs death.

57) You will not overtake something by speed, but that which is fated will not go away.

58) Do not consider a good man an outsider, do not call a bad man one of your own.

59) A Sart becomes rich and builds a house. A Kazakh becomes rich and takes wives.

60) Around rivers they do not dig wells.

61) Where there is food, you will also find a kettle. Where there is a soul in the body you will also find peace.

62) What is seen with the eyes is true, what is heard with the ears is a lie.

63) Without time it does not grow light, the spirit does not leave before death.

64) The people are not spoiled under a just ruler.

65) Count the days after the month, and the months after the year.

66) All the stars taken together do not equal the brightness of the moon; all the poor people do not equal one rich man.

67) The rich man boasts - and he finds; the poor man boasts - and he is ruined.

68) Do not say that the enemy is not here - he is under the cliff. Do not say that there is no wolf - he is under the cap.

69) Drive the kachagan (2) to the cliff /yar/, hunt the naked in the snow.

70) Daughter, I speak to you; My daughter-in-law, you listen. (3)

2. A skittish horse which is difficult to catch is called kachagan.

3. I. e., the daughter-in-law should make note of the remarks made by the father to his daughter.

71) Do not avoid a good man, do not bring a bad man near you.

72) The good man has no enemy; the bad man has no peace.

/265/73) Do not boast that you have a brother, if he is unreasonable.

74) If a black race horse is weary, it is hard for him to make a crow's step.

75) If the luster of black eyes is extinguished, noon will seem like night.

76) Even if he does speak nonsense, he is the son of a rich man.

77) Of what use is wealth, if there is no good in it. Of what use is it to be a bek, if you are not just.

78) Do not undertake the impossible, do not fight with an athlete.

79) No matter how much you beg, a bad man will not forgive; No matter how straight it is, a bad knife will not cut.

80) Stupid people do not hear moral teachings.

81) Do not say that a wedge is small /Ne govori, shto babka baran'ia (malen'kaia)/ but make it if possible a hammer /matkoi/ (i. e., the thing with which you strike). (1)

1. I. e., do not say he is young if he is intelligent, but recognize him as an elder.

82) Two fools do not consititute a village; a dog, no matter how many pups it has, will not be milked.

83) A truly generous person does not boast of giving; the hero does not go back on his given word.

84) A stupid friend who thinks he is bringing help does not notice himself that he is only doing harm.

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85) The first word of an Uzbek penetrates stone, while the last departs on the wind.

86) Do not always confide in your secret friend, for your friend also has a friend, to whom he also relates things.

87) When the eagle becomes old, it becomes a mouse-catcher.

88) Two stupid envoys who wish to bring four persons to one opinion proceed to cause six disagreements at the same time.

89) If you plead with a good man, he will forgive you; if you plead with a bad one, he will be proud, thinking you are a coward.

/266/ 90) If God wishes to chastise a rich man, he will send him on a baranta. If God whishes to chastise a mare, she will miscarry her foal.

91) Even if you push your own child he will not go away, but even if you chain a strange child, you cannot hold him.

92) It is better to marry a girl of good descent, unseen, than to marry a beauty you have seen.

93) The clever man makes a match with a clever one, but not a year passes and the matchmaking is upset.

94) The tricks of the rider /dzhigit/ reflect on the bek; the tricks of the wife on the husband.

95) The daughter is at home but her behavior is on the outside.

96) If two good men are united, they flow together like tin. If two fools begin to talk they will fly into a passion, like a flame.

97) When you talk with a good person - you become cheerful; when you talk to a bad person - you disagree.

98) If two wise persons talk, an unfinished affair is finished. If two fools talk, then a finished affair is completely ruined.

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99) A young man of good descent stands out in a crowd.

100) Bow to the ground before one who bows, but before one who is haughty, lift your head up to the sky.

101) No matter where the raven flies, it will be worse than the falcon.

102) From a good man you do not hear bad words, and from a bad man you do not hear good words.

103) A magpie is better than a bad hawk.

104) A good man avoids no one, while a bad man approaches no one.

105) To a just bii there are no kinsmen, but to a shifty one there is no religion.

106) A bad hawk serves as food to the magpie.

/267/107) Even if its mane and tail are thick, do not allow a young stallion into a drove of fillies which has one stallion; even if the father of the bride is rich, do not marry the daughter of a man who is not of good descent.

108) Abuse is not smoke, the eyes do not smart.

109) He who knows how to suck from two mothers, sucks.

110) If you esteem your host, throw a bone to the dog also.

111) If the wife of a rich man dies, the bedding will be renewed, but if the wife of a poor man dies, his head becomes giddy.

112) Fear him who does not fear God; but do not fear him who fears God.

113) A sharp knife is useful for the hands, but harmful to the scabbard.

114) Who does not have relatives and friends? But there is less sharing from them than from a stranger.

115) The dog barks but the caravan moves.

116) If you raise a scrawny animal and caress it, your nose and mouth will be in butter; but if you raise a bad man, your nose and mouth will be in blood.

117) A good man knows the value of a good thing; a bad one cannot know the value of a good thing.

118) Can a gray goose swimming in the water appreciate the charm of dry land? Can a great bustard living in the steppe know the worth of a lake?

119) Even an angel will move out of the way when he sees gold.

120) He who gives birth to a good son kindles a fire, and he who gives birth to a bad son will be bitten by dogs even on a camel.

121) The beauty is not the woman who is beautiful but the woman you love.

122) He who is raised by his father will plane arrows, and he who is raised by his mother will make a long coat.

123) Salute for forty days him whom you have fed for one day.

/268/ 124) Two sheep's heads will not fit into one kettle.

125) What is received is fortune, but what is given away is misfortune.

126) There are targets in a frightened eye.

127) If your mouth is burned, you will drink and blow on it.

128) Where the horse has wallowed, hairs remain.

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129) Even the worst man praises his child.

130) The raven does not scratch out the eyes of another raven.

131) Take care and you will not be humbled.

132) The man who has seen much is experienced, not the man who has many years.

133) Respect yourself as a stranger does, so that strangers will respect you as well.

134) When gold is in the hand, it has no value.

135) A live mouse is better than a dead lion.

136) An athlete comes from a mother, a horse from a mare.

137) If you are to fall, fall from a dromedary. (1)

1. That is, from a great height.

138) The people is holy.

139) Two newly-weds have only one wish.

140) If there is grief, go to the khan, but if you are hungry, go to the rich man.

141) Sickness comes from food, and a lawsuit from relatives.

142) Your own opinion is enough for yourself.

143) The hand does not leave the place that itches; you cannot break away from the words of the person you love.

144) A beautiful woman cannot fail to be a loose woman.

145) He who has tasted can differentiate between fresh and bitter; he who has traveled at a trot can differentiate far from near.

146) Who respects me is close to me.

147) The revenge of a good man continues until /269/ a silk kerchief dries out, but the revenge of a bad man continues until the head (of the adversary) bows to the ground.

148) Do not ask for something when people are crying, but ask when they are laughing.

149) A saber does not go with a pedestrian; wealth does not go with a poor man.

150) If a golden saddle is tiring to the horse, take it off and burn it.

151) Who sees much becomes wiser, but who talks much becomes more voluble.

152) There is no land without a mountain; there is no people without a sultan.

153) A slave is not he who is born of a slave woman but he who behaves badly.

154) If you pursue a coward even he will become brave.

155) Pain from saddle straps is known by the horse, not the owner; the worth of a rider /dzhigit/ is known not to himself but to strange people.

156) If two fools make an agreement, God grant that they remain alive.

157) Dark night has no eyes.

158) He who is satiated does not understand the hungry man, and the healthy person does not understand the sick one.

159) God has no livestock which he pastures; he takes from one and gives to another.

160) A slave, to whom God wishes to give, will take something on the road itself; but a thief will steal the last horse from the slave to whom God does not wish to give.

161) A thorn is unpleasant to bare feet.

162) A lost animal cannot be blamed if it returns to its former place.

163) In a man, the eyes are in front, and the faults in the back.

/270/164) There is no enemy stronger than a wife; she is imperceptible - and lies in embrace.

165) The knife that is lost has a golden hilt; the lost cow gave much milk.

166) Horses recognize each other by neighing; people know each other by talking together.

167) One hair is silver, the next a horsehair in the tail of a race horse.

168) A thief is like a spoon, the people are like the sea; it is easier for the former to perish from his own stealing, than for the latter to perish from a thief.

169) If you do not have a dependable shepherd, go to the sheep yourself.

170) In 15 years, the tents become the master.

171) The great are not great, but he whom the heart loves is great; The good are not good, but he whom the heart loves is good.

172) If a guest stops once, it is good, but if he stops twice, it means hunger.

173) No one is without sin except God Himself.

174) The Kipchaks do not always appear when they are called to help. God does not always help when there is wailing.

175) All Uzbeks have the same origin.

176) Even a giant flees from a gypsy (i. e., a wanderer).

177) The bad and the good man are equal once after death (i. e., their wergeld is the same), and a second time during life (i. e., abuse can touch them both equally).

178) The goose hisses, the scabby man /parshivyi/ breaks wind.

179) The bottom of the kettle burst, the scabby man broke wind.

180) They put a kettle on the scabby man's head. The kettle burst, and he broke wind.

181) A hare fled at the foot of that mountain. I grew hungry as I chased him. After I returned I ate only mutton and quenched my thirst by looking at girls. (1)

1. This proverb is used when a young man falls into the company of girls.

/271/ 182) Thirty ducks and one crane scratch the ground when they settle. (1)

1. This proverb is used jokingly about a scabby man who combs his hair.

183) My scabby one! My scabby one! Do not curl your hair. And if they hit you once on the shoulder, do not turn around backwards.

184) In the grass is kekere /a type of grass/, in the grass is kekere, and from the kekere grass a rabbit jumps out who has eaten his fill. (2)

2. This is said of a miserly man who, like the rabbit, eats himself and does not give to others.

185) A bad relative is worse than a stranger.

186) If your padishah is just, you have plenty of land, grass and water.

187) Who does not drink kumys, who does not court a girl?

188) It is not shameful to speak with superiors. If your jokes are pleasing, then joke with your father. (3)

3. This is said in justification when reprimanded for joking with superiors.

189) Agreements are not valid between enemies (everything is allowed).

190) From a good man his name remains, from a bad man the wailing remains (of his cruelty).

191) Contributions set the guests on their horses, helpers turn the enemies away in flight. (4)

4. That is, the more people there are in a village, the more they regale guests, and the better they repulse their enemies.

192) Bad lives with good everywhere. When good lives with good, what sort of life is that?

193) In an unseen people, there are unheard of things. (5)

5. They say this about the reports of travelers.

/272/194) Of a thousand words, one word holds conviction; after thirty days of fasting there is one holiday; after forty years of baranta, there is one day of reconciliation.

195) The key to what is begged for is in heaven. (1)

1. Said when it is difficult to beg something from a miser.

196) Do not set your (hunting) bird on a tree. Do not let your affair depend on a bad man.

197) An orphan's property dries seven rivers (i. e., it is dangerous to misuse it).

198) A woman without brains is like a frog without a tail.

199) Do not feel sorry for an orphan. An orphan is "siger kutingdi" (i. e., never expect gratitude from an orphan).

200) If you are sharpening something, steel cuts, if you are begging, a good man forgives /debts/.

201) Do not fear the man whose exterior is attractive.

202) He who misuses something entrusted to him will be punished in the future.

203) There is no haughtiness in a good man, and no gravity in a bad one.

204) A hungry dog eats his strap. Birds love height. A good man leaves a good memory, a bad man leaves a bad one.

205) The mullah reads what he sees. The raven pecks what he sees.

206) Whoever does not value the worth of a husband does not know the union of God.

207) The pure-hearted sweats a great deal. (2)

2. That is, he takes care of his friends.

208) It is better to hit the man they are giving a gift to, than to ask him if he wants the gift.

209) With a shameless man a holiday lasts six days; with a man without relations it lasts seven.

210) Praise sustains, a bad testimonial kills.

/273/ 211) If they come to you, forgive, even sacrificing the wergeld of your father.

212) When they come to your house, even if you have a claim as big as a house, do not speak of it.

213) A blow with a stick returns with a stick (i. e., an eye for an eye, a tooth for a tooth).

214) Fighting and quarreling is an ancient custom.

215) In fifty years a people renews itself. A hundred years transform /them/ into dust.

216) A stone full of holes will not remain on the ground.(1)

1. This is said in relation to the fact that a girl will always marry.

217) From many, one is taken as a sacrifice. (2)

2. This is said if someone is sent as a spy or an envoy, risking his life.

218) It is not really summer until the Besh-Toguz month begins.

219) If you are good, the place of a man will always be found for you.

220) For one man, two men are God. (3)

3. That is, two men are stronger than one man.

221) The body (4) is respected among acquaintances, the clothing

4. That is, the man himself.

among strangers.

222) There is nothing shameful about health. (5)

5. This is used in the sense that it is not reprehensible to guard the health.

223) It is not shameful to get lost, as long as you can find your house again.

224) From death there is no ransom.

225) He who is not fated to die will not even die of hunger.

226) Calling to prayer is the buisiness of the mullah.

/274/ 227) A horse which is fed will not grow thin.

228) As long as the wise man thinks the thought, the foolish one will already carry out the deed.

229) For the insane no rules exist.

230) He who trusts in God will not be despised. Slaves who trust in God will not be subjected to any grief.

231) If your go out, trusting in God, you will return with fortune.

232) If God wishes to give to his slave, he will accumulate from everywhere; if God does not wish to give to his slave, then thieves will steal his last horse.

233) Better a man with a copper head than a woman with a golden head.

234) A spying friend is worse than an enemy living far away.

235) Nearness and distance are known by the traveler, bitter and sweet are known by the person who has tasted them.

236) The mother's heart (yearns) for the child, the child's heart (yearns) for the steppe.

237) When you choose a girl, look at the mother; when you choose sacking, look at the length; when you choose a hawk look at its whiteness.

238) What failed to come in with the mother's milk will not enter with calf's milk (that is, never).

239) Who does not understand what he says will also die without pain.

240) An unscrupulous mullah can plunder a stupid people.

241) The back wheel of the cart will pass where the front wheel went.

242) When the mane of a lean horse improves, he will not allow fur to be fastened to his flank; when a poor man's flock increases, he will not allow others to nomadize with him, and if he does, he gives them no peace.

/275/243) To a lean horse, there is a whip in a burden.

244) It is not the person who ate who knows but the one who minced it (cooked it).

245) He who hastens will not bring his deed to its end. A prudent man does not lose his horse.

246) He who does not hasten will overtake the hare even in a wagon.

247) He who does not listen to his father will not live fortunately for long.

248) Do not drive your horse with the whip, drive it with food.

249) If you drive your horse only with the whip, you will walk on foot.

250) When a horse becomes emaciated, it is fit for a tulak; (1) when a man becomes thin, he goes for a visit.

251) The foal goes according to the tracks of the horse.

252) He who has not seen a horse will ride it to death.

1. A tulak is a horse hide, used in place of felt.

253) If your horse is bad you can free yourself by selling it. If your wife is bad, how can you free yourself?

254) He who never stops prattling to no purpose, will not be able to find a word at a wedding (where it is necessary to improvise verses).

255) He who is afraid of the bear does not go into the woods.

256) If you are rich, be self-righteous; if you are poor, be obliging.

257) It is impossible to dispute with the rich; it is impossible to fight with a tree.

258) The affair of the rich man commands, the affair of the poor man toils.

259) Children! Everything done by children is done by half.

260) It is not fitting for a son to teach his father.

261) It is possible to say "honey, honey", but there will be no taste on the lips.

/276/ 262) He who has eaten honey, licks his fingers.

263) He who is afraid of baranta will not be a herder.

264) Be satisfied with what there is; bear up patiently if something is lacking.

265) Where there is an originator, an imitator will appear also.

266) He is God who gave his head (life) and will also give food.

267) Only let the head be unharmed, and another cap will be found.

268) To the one who gives, five seems much, while to the one who receives, six seems little.

269) Do not look at the face of him, to whom you give.

270) Do not grumble about what has not been given, do not throw away what has been given.

271) Do not make the giver ashamed of a gift.

272) If you give you will receive; if you sow, you will reap.

273) For one horse two bridles are not needed.

274) After every starvation satiety follows.

275) Two mice do not live in harmony in the ground (under the tent) of one master.

276) Two feet do not fit in one boot.

277) It is not worth cooking two grains of wheat in one kettle.

278) A whole skin of oil is spoiled by only one small bit of excrement. One good man leads a thousand after him.

279) To him who has given food one day, forty days (should be given) salaam (greeting).

280) You are born in a day; you will die in one day.

281) In one tenga /coin/ there is no mare, in two tengas there is no camel. He who yearns for a stranger's welfare will not keep his own.

282) If you bite one of five fingers, all five will hurt equally.

/277/283) Ignorance frees one from a thousand misfortunes.

284) When angered by lice, do not throw your clothing into the fire.

285) One speaks for the head, the other for the ear.

286) A bachelor's sense is in both his eyes.

287) When it is cloudy it will rain; when it is clear it will be hot. Only a stupid man can forget the place where he was born and grew up.

288) The words of the ancients are never useless.

289) It is better for a foal to outstrip its own village than for a horse to outstrip a strange village.

290) It is better to be a shepherd in one's own clan than emperor of a strange people.

291) Food which is borrowed breaks the teeth, but it goes in.

292) He who has an infirmity has no force.

293) Of friends there are two, and of enemies eight.

294) A friend says stop crying; an enemy will say stop laughing.

295) Do not keep account with a friend but eat your food together.

296) My friend is well-disposed toward me, and my affair goes well.

297) If you allow your enemy to make peace with you, he will sit on your head.

298) When two women come together there will be a bazaar (noisy).

299) If you chase two hares you will not catch even one.

300) When two men speak (simultaneously) you do not catch either one.

301) Two mullahs disagree like women; one mullah is like two men (strong).

302) When two gerfalcons fight the solitary raven gets the food.

/278/303) If you exert yourself you will suck.

304) The surface of the sheep's skin is bitter, the words of a bad man are bitter.

305) In the summer a feast, in the winter - a laughing-stock. (1)

1. That is, he who feasts in summer can be in need in winter.

306) One whip to a good horse, a thousand to a poor horse.

307) A good horse is submissive, a bad horse is unruly.

308) To a good man evil (remains) close, to an evil man the good (becomes) disgusting. (2)

2. In the original suuk - cold.

309) A good name is better than wealth.

310) A good man knows the value of a good thing.

311) If you travel with a good man, you will reach the goal you desire. If you travel with a bad man, you will be discredited.

312) A good man is steady, a bad man is irritable.

313) To a lazy man every day is a holiday.

314) A lazy man lies down and his maintenance slips away from him.

315) If you make a bad man a yesaul (3) he will bring enemies to you.

3. A rider /dzhigit/.

316) If a bad man is caught in a crime he will say: this one was also my accomplice. (4)

4. That is, he tries to compromise others.

317) A bad stallion is unruly /norovit/ in the drove, the bad son-in-law misses his own relatives.

318) He who does not suffer misfortune will not find happiness.

319) There would be no more poverty if there were only a kind of food which could be obtained lying down.

/279/ 320) It is better to be the slave of a rich man, than the son of a poor one.

321) He who has lived through does not know, he who has been around knows. (1)

1. That is, he who has seen much knows, not he who has lived through much.

322) After the enemy has seized (you) by the collar, the dog seizes you by the coat.

323) After the enemies have departed, thrust your sword into the ground.

324) Butter is good even if it is not suitable to eat it; a rich man is good, even if he has not given anything.

325) The poor man has a scarcity but he is satiated.

326) The man riding a pacer does not look around for his traveling companion.

327) From a meek man it comes out thickly. (2)

2. That is, an unexpectedly sharp action.

328) He who is mounted on a race horse will forget even God.

329) A child who wants to cry will play with its father's things.

330) He achieves who is fated to (achieve), not he who runs.

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331) He who walks (has the wisdom of) the sea. He who sits (has the wisdowm of) the matting.

332) The people has fifty ears.

333) The people is not without thieves, the mountains are not without wolves.

334) He who has a younger brother has peace (from work).

335) Shame kills a man, reeds kill a hare. (3)

3. By preventing him from running away.

336) A man sees the real (state of affairs), a woman sees an erroneous one.

337) Though there are many men, there is no fuel; though there are many women, there is no water.

338) A man is the head, the wife the neck.

/280/339) The best of the young men does not know himself (that he is best) but the others know.

340) A man has a nose, a horse has lips. (1)

1. The sign of a horse that runs well is thick lips. The sign of a man's virility is a large nose.

341) When you gain the inheritance, bathe the legs of a donkey. (2)

2. That is, do not disdain any work.

342) When a donkey's burden is heavy, he wants to lie down.

343) Even if you put a dog on a golden dish she would jump off.

344) The baying of the dog is not heard by the wolf, the baying of the wolf is not heard by God.

345) Dog's food is black (mealy) kissel /gelatinous food of a kind of flour, usually cooked with berry juice or milk/.

346) The fox does not like the running of the dog, a sick man does not like laughter.

347) When they know how to lay /a fire/, even snow will catch fire; when they do not know how, even oil(3) will not catch fire.

3. That is, the best fuel.

348) One dog commands another, and that one commands its tail (puts its tail between its legs, obeys).

349) When a dog has no collar she pays no attention to a call.

350) A dog's stomach is not fit (to eat) cow's butter.

351) When a dog gets fat it will bite its master.

352) A dog will find the place where it had enough to eat, the man the place where he was born.

353) The way the mare is usually depends on the master, the way the poker is usually depends on the leather skin (for kumys).

354) The worst Kazakhs become Sarts, the worst Sarts become Kazakhs.

355) The careless person gets fat only from water.

/281/ 356) Do not expect wisdom for three days from the man who rode into the city.

357) The khan has the wisdom of forty men.

358) The khan (sometime) will also need his subjects.

359) A khan cannot be without subjects.

360) As long as the khan has subjects he can even launch a boat on dry land.

361) The shamefulness of the black dog is also transferred to the white dog.

362) By the time the black (brunette.) person flies into a temper, the yellow (blond) person has already used up his spirit.

363) A black man cannot be white, a white man cannot be black. When a knife will not cut the hand, there will also be no wounds.

364) The raven says to its child: my white one. The hedgehog says to its child: my smooth one.

365) The hair of women is long, but their wisdom is short.

366) If your wife is spiteful, of what use is the peace of the nation? If your boot is tight, of what use is the breadth of the world?

367) When your wife is a fool, let your whip be thick.

368) In whatever land you live, you will sing its song.

369) What is not settled by evening will never be settled.

370) A small stone can pierce even a head.

371) When there are many shepherds, the ram dies without being watched.

372) The dogs who are gray do not win, but those who are more.

373) He who has seen much is like a lake.

/282/374) If there is one child among many old men, he will act wise; if there is one old man among many children he will act as a child.

375) Of many words few are good. A few words are good alone.

376) Who talks much is a chatter box.

377) If there is much spitting there will be a lake.

378) For a timid man (everything) appears double.

379) The timid man does not recognize his father, the fool does not understand his mistake.

380) If you play with a hare, you will get tired. If you play with fire, you will get burned.

381) A strange horse is sweaty, strange clothing gets dirty.

382) What is done by man does not constitute the support of a man.

383) Do not sing the song of other people, sing your own song.

384) The eyes are cowards, the hands are heroes.

385) When the sun rises (1) over the kulan (wild horse), he will not wait for his foal.

386) If the kulan falls into a well, the frog will dance on his ears.

387) If you speak your mind, the dirt (distress) comes out of the heart; if you wash, the dirt comes out of the shirt.

388) He who has seen is defeated also by him who has not seen.

389) In a maiden there is something like a beautiful flame; when she becomes a wife, she forfeits her value.

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1. That is, when danger appears.

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390) Do not laugh at another, it (the misfortune) will come to you too.

391) When you ride out on a day's journey, take enough supplies for a week.

/283/392) There is no use in boasting.

393) Hold your tongue in the presence of the mullah, in the presence of the master /expert/ hold your hand.

394) He who has not been a wanderer is not a Moslem. (1)

1. Only he who has been a wanderer himself can have the necessary compassion for wanderers. This proverb came to the Kazakhs from the Sarts. The position of wanderers is difficult in the East. Compare the Arabic proverb: assafaru kyt"atun min assakar (a journey is part of hell) or: assakaru kyt"yatun minassaf (hell is only a part of a journey).

395) What you sow you will reap.

396) When knuckle bones land upright it spoils the game; a fool ruins a meeting.

397) A woman who has come after fire has thirty subjects for conversation.

398) A ruler has a spacious armpit (defense), a long stick.

399) The patient person will wait it out, the impatient one will boil over.

400) He who is patient will reach his goal.

401) The root (fruit) of patience is yellow gold.

402) God helps him who helps himself.

403) He who looks after himself achieves happiness.

404) If you greet a deaf man, he will speak of the head of your father.

405) If you make haste you will not find your master (God).

406) To speak of mine and thine shows a narrowness of the heart. To say "lie farther away, lie closer" indicates a narrowness of the blanket.

407) All the blind man asks is his two eyes.

408) The last camel has the heaviest load. (2)

2. It is difficult for the last camels to keep step with the forward ones.

409) Water is a mute enemy.

410) The sultan will not punish his bone (relatives).

411) It is not the beautiful which is beautiful but what one loves.

/284/412) Cows do not walk without pushing each other.

413) The teeth do not turn black in a horse which is well cared for.

414) At a break there is a mend.

415) A word passes through bones, a stick passes through flesh.

416) He who expresses himself awkwardly will say bad things even about himself.

417) If you wish to speak there are many subjects for conversation.

418) Character which entered with the milk (of the mother) will out only with the bones (death).

419) A man with a scabby head is usually talkative.

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539 420) A good colt follows the horse, the bad horse follows the colt.

421) Turning somersaults will not get a foal out of the drove.

422) The throat (thirst) plunges into hell.

423) He who has struck you with a stone, strike him with food.

424) Instead of giving a mountain of desires give a finger of happiness.

425) To the tongue every day is a holiday.

426) The tongue is sharper than the sword.

427) Even though the beggar's pouch is filled, his eyes are not satiated.

428) Strike the iron while it is hot.

429) The wolf will not devour the livestock of him who is supported by God.

430) God's days are more numerous /bol' she/ than millet.

431) The fool forgets the place where he was born.

432) If you go to a wedding, it means to go having eaten and having left your business behind.

433) When he hears about a wedding even a potsherd (an old man) wants to rush there.

285/434) A wedding is for people who have a long coat, memorial services for those who have a horse (for racing).

435) Do not keep salt a long time, for it will turn into water. Do not keep a maiden for a long time or she will turn into a slave.

436) There are friendly relations between four-legged camels, and between two-legged people of the same age.

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437) He who drew near knows, not he who was born at the same time.

438) There is misfortune in turbulent mouths.

439) Outside it glitters, inside it is chattering (with cold).

440) To the mouse death is necessary, to the cat a game is necessary.

441) When your camel dies, your luck is gone. When your cart breaks down, it will be repaired.

442) Stretch out your legs depending on the blanket.

443) Before he enters, the guest is under restraint, after he enters the host is under restraint.

444) A road, even if it is long, is good. A maiden, even if she has bad morals, is good.

445) He who has fallen alone will not cry.

446) To everyone his own is as warm (dear) as a fire.

447) Ask advice of him who wore out one shirt earlier than you (elders).

448) He who was not satiated with the colostrum, will not have had enough with the ninth (dish).

449) He who has a home also has a song.

450) Shame is more powerful than death.

451) A great one begins, a small one throws away.

452) He who has not been exposed to a dispute does not count.

453) If your traveling companion is a Russian, let there be an iron ax in your hand.

454) He who listens to instructions will not perish.

455) The skilled man is often without a knife.

/286/456) A sword will not cut a neck which is stretched out.

457) Do not regret past deeds. No matter how much you regret, it will not be as it was in the past.

458) What was inflicted (of insults) was mutual, and the rest (which was not mutual) is forgiven.

459) A blunt knife also cuts a hand.

460) When the devil is leading, the eyesight will not work.

461) Slander kills; praise supports.

462) If you do not accept the invitation, you cannot expect another invitation.

463) When someone holds his nose in the air, do so also in front of him for he is not the son of the Prophet. When someone bows, bow also before him, for he is not a slave bequeathed to you by your father.

464) He who is afraid of locusts will not plant.

465) At the trough there is also a pail.

466) A horse fettered on three legs is my own horse. A horse who is fettered by two legs is my free horse.

467) The flies circle around something rotten.

468) An escort who does

468) An escort who does not accompany the person to the end is not considered an escort.

469) He who is afraid of sparrows will not sow millet.

470) He who has no work also has no food.

471) Old clothes do not keep you warm.

472) There is nothing new without something old, and there is nothing old without something new.

473) He who has not found work has lice peeking out of his trousers.

474) I fell into an abyss without noticing it. Where do I get out?

475) A friend is bitter (not dear), livestock is sweet (dear).

476) If you do good to a person, some /287/ good for nothing will not accept your goodness. Many people have lived on earth who have lost trust because they answered good with evil.

477) He who begs from people grows thin. He who asks from God has something. A reasonable man discerns every matter with his mind.

478) The corruption of people is within, the corruption of livestock is on the outside.

479) It is impossible to enter a house without decorum. It is impossible to live in a country without a chief.

480) There are people who cannot control passion, the great enemy. Having made friends with passion, they cannot take their eyes away from the world.

481) My own tent is light, similar to a spacious sarai.

482) A friend who plans to take his leave begins to demand the back pommel of the saddle. (1)

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1. That is, the impossible, for the Kazakh saddle has no pommels.

483) Words directed to a friend are in vain.

484) For an openhearted man, his horse will not grow lean, his long coat will not wear out, and he will not grow poor with all his generosity.

485) The chick of a white gerfalcon cannot look for food for itself. On the lips of a scoundrel, a prayer has no force.

486) There are usually five or six chicks of the white gerfalcon, but of these only one learns to hunt swans. Those who are unable to hunt for swans become a laughing stock to the small bird.

487) If you tell a wise man he will understand. If you tell a stupid man he will laugh.

488) Make friends with the wise man, stand aside from the stupid one.

489) A hint to the wise, a big club to the stupid.

490) There is sense in food, there is bravery in youth, there is value in a stone.

491) When the leadership leaves the path of justice, the spine of the people cracks.

492) The words "we take" are the truth the words "we will give back" are falsehood.

/288/ 493) The weak man puts it off until the future life.

494) When you have food, you consort with people. When you have a horse you see the country.

495) The hasty duck dives (not head first but) with its tail.

496) A Kazakh whose father and grandfather were not biis, does not act according to custom. He hears petitioners with hints (for a bribe) and he does not stand before superiors, out of pride.

497) A daughter is gotten rid of thanks to the glory of the father; the cloth is disposed of thanks to the glory of the mata. (1)

1. Mata is a cotton material of local manufacture used for shirts and underwear.

498) Do not hunt hares with a man from another place. He will prevent you from shooting just by being by your side.

499) There sometimes are four year old foals which do not turn into horses. There are such widows who cannot be changed into girls.

500) He who sits on a horse does not appropriate to himself the property of a man on foot, and if he does, the people does not approve.

501) The horse, depending on its running, turns into money; a bad man is transformed into a slave by fleeing.

502) If you do not value your horse, you will find yourself walking. If you do not value food, you will go hungry.

503) A good horse is the horse Burak on the road; a good son is a light in the heart. If your horse is bad, your satisfaction departs; if your son is bad, your strength departs; if your wife is bad, the guests depart from your house, while if guests do come, you will depart from them downcast.

504) When a dog of the village is worthless, it will enter into an agreement with a wolf.

505) It seems to a hungry stomach that it will never /289/ be filled. To a full stomach it seems that it will never be hungry.

/ 506)is not in the text. /

507) Wickedness is a Kafir /infidel/, wisdom is a friend; add wisdom to your wisdom.

508) Step into the bazaar. There you will test your luck.

509) The rich man perishes from one ram, the hero perishes from one bullet.

510) When the rich man boasts, there is oil. When the poor man boasts, what is there?

511) Send a child on an errand, but run with it yourself.

512) He who cannot catch a fish muddies the water.

513) Abundance permits you to say what you please. Want forces you to eat what is polluted.

514) When there is something to eat, wipe it up with a piece of bread. When there is not, wipe it up with your spirit.

515) When there is something to eat, wet it and eat it. When there is not, sell and eat.

516) What happens to the head is seen by the eyes too. (1)

1. Variant: is suffered by the soul too.

517) If advice is asked of a hero, he will show his sword, gun and flag;if advice is asked of a livestock herder, he will show a one year old camel and a two year old camel; if advice is asked of a butcher, he will show his knife and grindstone.

518) If you are a hero and a rich man, why are you not the ruler? If you are poor but a bek, why are you not a laughing stock?

519) Do not compare your bad relative with yourself, do not call a bad person estranged from the good "your eye" (2)

2. Guardian, well wisher.

520) Being born together goes together, living together does not go together.

/290/521) There is a long road; although it is long it is near. (1) There

1. Suitable for passage.

is a road near at hand; although it is near it is long. (2)

2. Impassable.

522) If a guest stays one day, honor him; if he stays two days, swallow. (3)

3. Dzhut has two meanings - hunger and swallow /imperative case/. This proverb can consequently be translated in this way also: if a guest stays one day, honor him; if he stays two days, you will starve.

523) Once you have asked five for one tenga, you will not force silence for a thousand tengas.

524) Whoever says "I know" (about a crime) gets caught, but whoever says "I do not know" slips away.

525) Sometimes even one who knows allows an act (4), and also

4. A mistake.

one who does not know allows an act. (4)

526) Where is your knowledge if you do not forgive ignorance?

527) Rushes which have grown badly will even burn under water.

528) A people whose leader is a youth will not be left unharmed; a herd of wild goats led by a young goat will not be left unharmed.

529) Impurities are bad, but worst of all is poverty.

530) When you eat a goose at someone's table, dress your duck (for him).

531) Some skip from satiety, and some from hunger.

532) When you are in power, live powerfully, pass your time like a white pacer /horse/. When you realize that you have ceased to be powerful, yoke up a pair of oxen for a (strange) man.

when snow falls in a snowstorm or a hurr

533) When snow falls in a snowstorm or a hurricane, th[illegible]nd is
vered with snow. It is the sign of a molodets (young man or coura-
ous fellow?) to clean the path by which he has come.

534) To one who has not seen happiness, it seems that happiness
91/ will never be; he begins to envy the man who stands above him.

535) A friend looks at the head, an enemy at the feet. (1)

1. Used when someone is making fun of a barefooted person. The head is called holy(aziz).

536) When a friend is drunk, he becomes an adversary.

537) If you pursue the world, it moves away; if you move away from the world, it pursues you.

538) Two plaintiffs do not make up a village; once you have called someone a dog or a pup, never stroke (flatter).

539) When two dromedaries squeeze against each other the fly between them dies.

540) If you are good, you will find; if you are bad, you will get thin.

541) Do not stretch your hand (2) away from good; it will be

2. Do not remove.

useful for many days. This world will not be a traveling companion, this power comes and goes, without permanence for anyone.

542) Among good men lies a saddle and a horse; among good females (3) lies a cradle and a son.

3. Women.

543) A good man will never be bad, a good horse, even though he grows lean will not be a jade.

544) Living with good people is paradise, living with bad

eans quarreling.

545) If you call a good person bad, he will stretch out his
ck like a white swan. If you call a bad person bad, he will
cape without a trace.

simpl

wife;
better

546) A good person knows the character of the good. How can bad persons know the cheapness and expensiveness of things?

547) Advantage from the good, harm from the bad.

548) The spirit fattens from a good word.

549) A good son is the mainspring of the heart, a bad son is the dirt of the nose.

/292/ 550) One beam cannot be a house, only one man (1) cannot be a bii.

551) One sheepskin is little for a fur coat. A gathering of bad people alone cannot be a feast.

552) Do not do good to an evil person; he will attack your head.

553) Reason appears in a bad man only after noon.

554) Do not pay attention to bad, do not forget good.

555) Do not be in debt to a bad person, and if you are, do not spend what you have taken.

556) A bad man does not remain constant to one thing; the act of a changeable man is not changed by God into a better one.

557) The bad man does not recognize timeliness, the blind man does not recognize a pit.

558) Every act, good and bad, is initiated by God; some

etons ascribe them to people.

559) It is better to be without a wife than to marry a bad
it is better to have no children than to have bad ones; it is
to walk than to ride a bad horse.

fooc

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1. Without the support of his relatives.

560) A bad man's shot will not hit the mark, and his words will not be realized.

561) He who causes pain to the soul is not a friend.

562) If you are poor, do not mind; if you are in debt, do not act haughty.

563) There are people who are adult in years, but young in mind; there are those to whom their own reason does harm.

564) The dust from a foot traveler is not visible, the voice of a single person is not audible.

565) Trees are the adornment of the earth, livestock are the adornment of the people.

566) A young man's beard grows out at twenty years; your son's ardor rises in the spring.

567) The snake twists as it flees, but goes straight into its hole.

/293/ 568) If you speak warm words, even the snake will come out of its hole. If you speak striking (with a stick), reason departs from the senses.

569) The rider who behaves badly is seized by the enemy in the midst of his own people.

570) Over the arrogant is God, over hard iron is the hammer.

571) If you give your food away to people, they will caress your head; if you give food away to dogs, they will tear your head apart.

572) When a man speaks, the road opens; when a woman speaks, the sitting opens.

573) Do not throw away the morning food, do not expect evening
l.

574) A hairy lasso will not squeeze the neck of a man.

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575) Do not marry the girl you saw through the door; take the one you have seen since the cradle.

576) The dog is faithful, the wild animal bays.

577) I only want one thing, and that is a black stallion; when I obtain a black stallion, then you do what you wish.

578) Good wishes have developed among people, good deeds have developed between good people.

579) In an abandoned lake a frog is a stallion, for an abandoned wife, a worker is a stallion.

580) Continence fills the stomach, incontinence slaughters the last horse.

581) The unjust khan loses his position; the unjust bii loses his trust; the rich man who is not bountiful loses his livestock; he who grudges his livestock loses his friend.

582) Be not an adversary of the khan, be not a sinner before God.

583) Kinsmen dispute but do not reject each other.

/294/ 584) A relative goes to a relative, and misfortune descends on the stranger.

585) Do not confide your secret to a woman, do not believe until you are convinced.

586) A people which is led by a woman will not be left with anything.

7) Another fool makes friends with his enemy and disputes friend.

8) A long coat which is made after deliberation will not rt.

/295/60

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589) I placed a dish before you, and put a knife in your hand.

590) The judgment belongs to /is in favor of/ him who owns the felt.

591) From a pack of dogs even a fox will not escape.

592) He who frightens /others/ much, thrusts (his hands) in deep.

593) Prolixity - obscenity.

594) He whose future stands before him has need of people; he whose future does not stand before him, what need has he of people?

595) When informing of the pasturage of wild horses, take your rest separately.

596) There is no urine in fighting, inside it boils like a kettle.

597) An eminent (bride) whom (you) have betrothed yourself to without seeing her is better than a beauty whom (you) have betrothed yourself to, having seen her.

598) A bird flies with its wings, and settles with its tail.

599) A lamb which will become a male usually has a prominent forehead; a youth who will be a good man has a spacious skirt and sleeve.

600) A short string is not enough for a slip noose.

601) When the poker is long, the hands do not get burned; when you have many relatives, people will not touch you.

602) Give your animal to be pastured by him who found it; let him who gathered the kindling burn it.

3) There is no young man who would not acquire livestock;
no woman who would not acquire a son.

4) When the master is absent, the slave enters inside the wall;
e dog is absent, the wild boar will grunt inside the wall.

605) The manner of vile people goes in twos and kicks itself.

606) A cow is not usually (1) yellow, a camel is not usually a bay.

1. Is not called.

607) Before I have ferried across the river, I promise to give my daughter after I reach the other side; after I have crossed the river, I do not even recognize you by sight.

608) He who gives without being asked may boldly be called generous; the horse which runs without being urged can boldly be called a racer.

609) It is possible to speak to him who listens; but for him who has firmly stopped up his ears with wax, is it not all the same, what is said and what is not said?

610) He who hunts by a word will gain misfortune; he who hunts by a path will gain treasure.

611) Not to speak is better than to speak; a stick falls on the head of the speaker.

612) Those who have come together will not become close; kinsmen will not become distant.

613) If you eat to keep from being hungry, the foal will remain; if you eat to be filled, the ram will remain.

614) A stone is heavy to him on which it lies.

615) When the deer's horns ache in the mountains, then even the cow's horns ache in the valley.

616) A stream flowing from the mountains pours into the sea; do not rejoice when a good person is born of a bad one; he will follow in his tracks.

/296/ 617) A fool has eight legs; if one does not hit another one will.

618) As long as you live, observe and acquire knowledge, and follow all good people.

619) A goat without horns who wants to beg horns for himself will forfeit his ears.

620) The sparrow protects its baby from the rain, but protects its own head from hail.

621) Do not do evil to the person at whose house you ate bread and salt.

622) The Turkmen became rich in his sleep.

623) When four men are in alliance they can reach something which is over their heads; when six men disagree, they lose what they have in their mouths.

624) He who has a heart and a soul also has death on him; we are afraid before death.

625) He does not know himself, and does not listen to him who knows.

626) He who asks about the distant ancestors of the man who has made a rider (a good man) of himself, is a dog.

627) Do not confess your own sins; when they want to discover the traces, they will not be concealed.

628) When it is needed for myself I have a pair of oxen; when people need it, I have various kinds of work.

629) When I reflect myself, I receive a mare with foal; when I advise another to reflect, my feet barely touch the ground. (1)

1. That is, he who defends his own case in a litigation easily wins, and on the contrary, he who entrusts the running of the case to another has to flee from the court.

630) He who praises himself will soon be overtaken by death.

631) An uninvited guest sits on the bare ground.

632) If he is beaten he will get as fat as a badger.

/297/ 633) He who does not know his own country will not be bit among his own people.

634) Do not say that the tent is yours; there are also other people behind the tent.

635) Singing is like a feast, obesity is like a ram.

636) A dexterous man swims against the current.

637) A thief does not get rich, a dish-licker does not get fat.

638) The heart of the thief knows, and the heart of the plaintiff knows.

639) Truth on the lips of a liar is lost in vain.

640) A false word is an enemy to the soul, a sharp knife is an enemy to the scabbard.

641) If you sleep you will acquire a dream; if you do not sleep you will acquire a herd.

642) Horses from different herds are united by a halter; people from different clans are united by God.

643) A shameless son is bad, a self-willed daughter is bad; a bad daughter is like hoar-frost: she will disappear somewhere; a bad daughter-in-law is like permanent hoar-frost: your soul will be tormented every day.

644) The worst fodder is the seleu grass; the worst people are the Teleu clan.

645) The dexterous man eats twice; what does the stooped man find?

646) The kulaks (run out) from the fallen person.

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647) It is easier to fight an enemy to whom on has grown accustomed.

648) For strong iron there is a hammer; for a presumptuous person there is God.

649) God takes care of the wronged.

650) The sword does not recognize agreements.

651) Give up your life to enemies, but do not give away a secret.

652) They cannot skin two hides from one ram.

653) The evil man gathers clubs, the fool takes wives.

/298/ 654) If your brother dies, your inheritance is your sister-in-law; if your horse dies, the hide is your inheritance.

655) A wife does not respect her husband, because she often sees his naked body; the father-in-law will not respect the bride if he sees her face often.

656) By selling his son he had a horse; by selling his daughter he had food.

657) The orphan with a father is a dishonest orphan, the orphan with a mother is a valuable orphan.

658) On the head of an orphan with a mother, a hand and a comb play; lice play on the head of an orphan without a mother.